

INSTRUCTIONS & COMMENTARY for

Standard Form of Contract for Architect's Services

OAA 600-2013 & OAA 601-2013 and both contracts with Amendments to October 1, 2019

Introduction

The 2008 version of the OAA standard client/architect contract OAA 600 had been updated, improved and reissued in two formats - the standard 600 and an alternative 601 where the architect attaches their own specific scope of services. The contracts and the Instructions & Commentary are prepared by the Ontario Association of Architects for use by its members. The Instructions & Commentary are provided to assist both client and architect in completing the contracts and provide a better understanding of some of the more important parts of the documents.

The information herein applies equally to OAA 602 and 603 for Licensed Technologists OAA.

July 1, 2018 Amendments (Schedule A)

Both formats of the 2013 version have been amended to take into account the changes required by the *Construction Act* R.S.O. 1990, c.30, which came into effect on July 1, 2018. The changes are identified in the amended versions by a vertical bar along the right side of the amended clauses.

OAA 600-2013 and OAA 601-2013 without the July 1, 2018 amendments are applicable where the *Construction Lien Act* in effect prior to July 1, 2018 applies according to the transition rules. This would be the case for a project where:

- a) a contract was entered into before July 1, 2018, regardless of when any subcontract under the contract was entered into;
- b) a procurement process, if any, was commenced before July 1, 2018 by the owner of the premises; or
- c) the premises is subject to a leasehold interest, and the lease was first entered into before July 1, 2018, a contract for the improvement was entered into, or a procurement process for the improvement was commenced on or after July 1, 2018, and before the day sub-section 19 (1) of Schedule 8 to the *Restoring Trust, Transparency and Accountability Act*, 2018 came into force.

For the purposes of the Act, the commencement of a procurement process include the making of a request for qualifications, a request for quotation, a request for proposals or a call for tenders all for a specific project.

The 2013 versions with the July 1, 2018 amendments are for use only with projects where the *Construction Act* applies. This would be the case for any project which does not meet the July 1, 2018 transition rules noted above.

The Instructions and Commentary for OAA 600-2013 with July 1, 2018 Amendments are attached as Appendix 'A'.

Additional editorial changes were made. Where they are substantive, they are indicated using a vertical bar in the right margin.

Amendments to October 1, 2019 (Schedule B)

Both formats of the 2013 version with July 1, 2018 amendments have been further amended to take into account the changes required by the *Construction Act* R.S.O. 1990, c.30 for prompt payment and adjudication which came into effect on October 1, 2019. The changes are identified in the amended versions by coloured text with a vertical bar along the right side of the amended clauses.

OAA 600-2013 and OAA 601-2013 with only the July 1, 2018 amendments are applicable where the *Construction Act* in effect prior to October 1, 2019 applies according to the October 1, 2019 transition rules. This would be the case for a project where:

- a) a contract was entered into before October 1, 2019, regardless of when any subcontract under the contract was entered into;
- b) a procurement process, if any, was commenced before October 1, 2019 by the owner of the premises; or
- c) the premises is subject to a leasehold interest, and the lease was first entered into on or after July 1, 2018 and before October 1, 2019.

For the purposes of the Act, the commencement of a procurement process includes the making of a request for qualifications, a request for proposals, or a call for tenders all for a specific project.

The 2013 versions with amendments to October 1, 2019 are for use only with projects where the *Construction Act* applies. This would be the case for any project which does not meet the transition rules noted above for the October 1, 2019 amendments.

The Instructions and Commentary for OAA 600-2013 with amendments to October 1, 2019 are attached as Appendix 'B'.

Additional amendments for client loss of confidence were made. These are also indicated in red using a vertical bar in the right margin.

Additional editorial changes were made. Where they are substantive, they are indicated using a vertical bar in the right margin.

The instructions and commentary in this document were considered accurate and correct when written. Members are cautioned that changes to the applicable legislation and court decisions relating to prompt payment and adjudication may require adjustments to be made in the use of this document. Since the prompt payment and adjudication provisions are new and have not yet been tested in court, members should consult their legal counsel to determine if there have been court decisions and what impact the decisions may have.

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Background & Changes

Process

The OAA Practice Committee (PC) began a review of the OAA 600, 2008 *Standard Form of Contract for Architect's Services* in 2011. A Task Group was set up to have separate meetings working with the Practice Advisors and reporting back to PC along the way. The process continued culminating in PC recommendation to Council and its approval in December 2012.

The following general goals for the update were established early on:

- Make minor corrections to references, syntax, numbering and content that have been collected by the Practice Advisors since the 2008 version was released;
- Amend sections that have been found to be problematic;
- Provide the contract as a fillable (fill-in-the-blanks) PDF;
- Obtain client input via legal advocate for client's perspective of the contract; and
- Instructions & Commentary to be combined into one document, reformatted for clarity with text and colour variation and adding appropriate new content addressing revisions to the 600 contract.

Client Input

One of the goals was to make the contract as client/owner friendly as practical, to strive for a 'fair' balance and to obtain client input. A lawyer, familiar with the OAA 600 and often retained to provide legal advice to clients, was engaged to act as a 'client advocate' and propose changes beneficial to a client. A presentation was made by the client advocate lawyer advising which clauses in the OAA 600, 2008 most concerned clients, resulting in supplementary conditions or amendments and suggesting reasonable revisions to avoid the need for client changes. PC was also advised at the same presentation by its counsel as to the implications of the suggested revisions. PC agreed that many of the suggested items could be incorporated to provide a more balanced contract.

Most Visible Change is Format

The most visible change to the new version of the OAA 600 is format. There are two versions: a standard version - OAA 600 with the schedules of services included in the body of the contract; and an alternative version - OAA 601 for use where the architect attaches their own scope of services. Both versions are 'fill-in-the-blank' type PDF documents. Members are no longer required to download and combine individual files then piece together the Cover, Agreement, Definitions, General Conditions and Schedules as for the 2008 version.

Previous 'A' and 'B' Schedules

There is no longer a decision required to use either the Schedule 'A' (Excel table format) or the Schedule 'B' (Word narrative format). The most accurate description of services from Schedules 'A' and 'B' were used and reformatted into GC2.1 and GC3.1 and dividing them into 'Basic' and 'Additional' services.

The use of the term 'Basic' services was dropped by the RAIC and the OAA at the time the Schedule 'A' check-off table style listing was introduced (circa 1988), but has since been re-introduced in the RAIC Fee Guide (*A Guide to Determining the Appropriate Fees for the Services of an Architect*), in order to form a common base on which to establish the published percentage fees.

The identification of Basic services provides greater clarity to clients and architects and provides important consistency with the percentages contained in the RAIC Fee Guide, which are also based on 'Basic' services.

Custom Services

To provide flexibility for situations where architects are providing other than traditional or basic full services such as smaller portions of services or a custom set of services, an alternative contract version has been published (OAA 601) with identical language except for the description of services, which is covered by a individualized scope of services attachment.

Members may find the short, three-page OAA 800-2011 *Standard Form of Contract for Architect's Services* better suited for situations where 600 or 601 is not appropriate.

Provided Only as PDF

The contracts are provided in PDF format only with no editable Microsoft Word or Excel version available. Having a non-editable template reinforces the premise of having a 'standard' contract. Modifications can still be made easily by using the text box in GC13 Other Terms of Contract or with Supplementary Conditions, but these modifications will be clearly visible to the reader as changes from the standard OAA contract language.

Can't Fix Everything

The new versions include best attempts at solutions for some of the problems that seem to be perennial, such as getting additional fees for scope creep or for release of CAD drawings. However, it is important to note that good management of the process, project and the client's expectations can minimize these problems, whereas, changes to contractual language alone cannot. The Commentary will provide suggested wording for some common situations encountered where special terms and conditions are appropriate.

Some of the language in the contract is intended to best describe the responsibilities of each party and avoid misunderstandings. The contract reverts to plain language as much as possible.

Specific Revisions from 2008 Version

1. Added identification of the owner where different than the Client. (A5)
2. Added anticipated time frame for the construction phase. (A7)
3. *Electronic Documents* - clarified in the Definitions, GC7 Copyright and Use of Documents and elsewhere that digital drawings are PDFs and not editable CAD files. The position of OAA 600 & OAA 601 is that *Instruments of Service* are provided to the client, but that they do not include CAD files except via separate licence agreement.
4. *Construction Lien Act* (CLA) holdback on fees – included wording that splits holdback on fees into two parts (i.e. First part to be end of contact documents phase to allow approximately 75% of the 10% holdback on fees to be released). (GC11.10)
5. Revised so that additional services resulting from unforeseen situations cannot be included in a fixed or percentage fee and can be determined only as to scope and compensation if and when the events occur. (GC3.2)
6. Divided Suspension & Termination into separate sections for additional clarity. (GC9 & GC10)
7. Simplified Termination expenses simplified, clarified and revised from the graduated calculations to a simple 10%. (GC10.6)

8. Clarified *Budget, Estimates* and *Construction Cost*, including new definitions and additional language for the early steps of preliminary design. (GC5)
9. Reinforced that *Contingencies* are to be included in the *Estimates of Construction Cost* and clarified the different types – design, escalation, and construction contingency. (GC5 and Definitions)
10. Reinforced that *Consultant Coordination* is part of architect's services (A10 & GC1.4) but only for those consultants identified in Article A10. Deleted from the table of services the *Consultant Coordination* items to avoid creating contractual conflict.
11. Removed from the table of services the listing of "consultants engaged" to avoid a conflict with consultants engaged listed in the Article A10. Variations in compensation for consultants can be covered in the Article for fee calculation or Other Terms of Contract.
12. Reinforced and clarified the Client Responsibilities to:
 - provide: survey, soils and hazardous info; still Additional Service for Arch to "assist client to obtain" GC3.1.6; and
 - provide Program, Budget and anticipated Schedule; Additional Service for Architect to do the "Programming" GC3.1.3.
13. Added and consolidated Architect's Responsibilities to provide a comprehensive list. (GC1)
14. Several pre-design items combined into Additional Service for pre-design study. (GC3.1)
15. Clarified the architect's liability in contract for their consultants.
16. Miscellaneous Items:
 - Clarified and reinforced that certain services commonly requested or required by clients are Additional Services (GC3.1) including:
 - Value engineering sessions /services
 - Involvement in mediation or other dispute resolution
 - Awaiting approvals from authorities;
 - Definition for Reimbursable Expenses deleted and info added to GC11.3 Payments to the Architect per client legal advocate comments;
 - Portions of Construction Cost definition relating only to percentage fees moved to GC11 Payments to the Architect and Article A12; and
 - Format for Definitions pages simplified.

Availability of Older Versions of OAA 600

The OAA strongly recommends to architects and clients that the most current version of standard contracts be used.

The current versions of OAA 600-2013 are available for free on the OAA Website.

The previous 2008 version is **no longer** available **on the OAA Website**.

The OAA retains archive copies of versions of the standard contracts prior to 2013. The OAA is aware that some client groups have prepared documentation to go with older versions of OAA standard contracts and that they prefer to continue to use those; however, it is the OAA policy that archived copies of these documents are retained for information only and are not distributed for use. Owner/clients referencing older versions of OAA contracts in RFPs should **update their documentation** as the older versions **do not comply with current law, have been withdrawn from use, and** are no longer available from the OAA.

Instructions for Use

Mac users Note: Features of Adobe PDF forms do not view as intended with Mac's standard software "Preview." Adobe Reader or Adobe Acrobat is required to properly view, fill in, and print PDF forms. Adobe Reader for the Mac or PC is available at:



for Mac OS



Download: The contracts are downloaded from the OAA Website: *Professional+Resources/Documents/Contracts*.

Save: Once downloaded, save a copy to the pc desktop or elsewhere. Saving a copy unlocks features of the Adobe file. Rename the file appropriately (e.g. "master"). Make additional working copy.

Review: Review the Instructions & Commentary and sample completed contract.

Fill in: Fill in the blanks of the contract.

Save again: Save a copy. This is an "un-locked" copy in case changes are to be made later for this contract or to use to edit for a future contract.

Lock and Save: Use the button at the bottom of the first page to create a "locked" copy with all the fill-ins locked except signature spaces (i.e. it cannot be edited further, only signed). Save with unique file name to identify it for the project. Generally, this is the file that is used to email to the client for review, acceptance, signature and return. Sign digitally first if sending by email or print a hard copy to sign by hand.

Add Attachments: To add attached pages, appendices, or schedule attachments electronically, use a software program such as Adobe Acrobat. Prepare the pages to be attached as a PDF file then follow instructions for the software program being used to add the pages.

For OAA 601: Follow the instructions above for 600 for saving, fill in the blanks, etc.

Prepare the scope of services, include it in GC13 or attach it as separate page(s) and reference the attachment in GC13. Attach the Scope of Services:

- a) by hand; or
- b) scan, or have scanned by a copy shop, and combine it with the contract PDF into a single PDF file or two if preferred to have scope separate.

Commentary

General

The full contract is reproduced following with commentary in blue larger font text. Additionally, an example of a completed contract is available on the website. The commentary and references to other information are intended as assistance and guidance to users but are not complete or comprehensive. It is simply not possible to anticipate all circumstances.

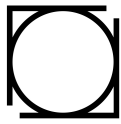
Of note is the replacement of the 2008 version separate Schedules A & B, the content of which has been modified and incorporated in tables in GC2 Basic Services and GC3 Additional Services. In addition, there has been a regrouping of the General Conditions and the signing page has been moved to the end of the contract along with GC13 Other Terms of Contract.

In the 601 version, the architect's scope of services are described in GC13 Other Terms of Contract or attached in an appendix. The scope of services using the OAA 601 should be reviewed carefully to ascertain that it fairly describes the services of the architect and the responsibilities of the client, such that both parties understand their respective duties and responsibilities under the contract.

It is always recommended that parties obtain legal and insurance advice when entering into a contract. This is a particular need when there are significant revisions to the standard terms and conditions via supplementary conditions or amendments, if using non-standard contracts for construction (other than CCDC contracts) or if there are amendments or supplementary conditions to the construction contracts.

Any amendments to the OAA 600 or 601 contract such as revised wording, deletions or additions should be documented in GC13 Other Terms of Contract and if necessary with an attached appendix that is referenced in GC13 as attached. Alternatively or for minor changes, hard copies of the contract can be amended by hand and initialled by both parties. Again, legal advice is recommended.

Consistency between the client/architect contract and the construction contract is essential if the architect is to provide any services during the construction phase for general review and/or administration of the construction contract. The architect's services contract needs to be coordinated with the "Role of the Consultant" described in the owner/contractor construction contract (e.g. CCDC 2). This coordination needs to include any supplementary conditions made to the construction contract.



Ontario Association
of Architects

Standard Form of Contract for Architect's Services

OAA 600-2013

FOR

A large, empty rectangular box with a thin black border, intended for the user to enter the project name.

Insert *Project* name in text box.

OAA 600-2013**Table of Contents****Agreement**

Date	A1
Client	A2
Architect	A3
Project	A4
Owner	A5
Client's Budget	A6
Anticipated Dates for Construction	A7
Construction Contract	A8
Initial Information	A9
Consultants	A10
Fees	A11-17
Release of Holdback	A18

Definitions**General Conditions**

Architect's Responsibilities	GC1
<u>Architect's Scope of Basic Services</u>	<u>GC2</u>
Provision of Additional Services	GC3
Client's Responsibilities	GC4
Budget, Estimates and Construction Cost	GC5
Construction Phase Services	GC6
Copyright and Use of Documents	GC7
Liability of the Architect	GC8
Suspension of Services	GC9
Termination of Services	GC10
Payments to the Architect	GC11
Miscellaneous Conditions	GC12
Other Terms of Contract*	GC13*
Signing Space	

**List any documents attached to and forming part of this contract in GC13 Other Terms of Contract*

OAA 601-2013**Table of Contents****Agreement**

Date	A1
Client	A2
Architect	A3
Project	A4
Owner	A5
Client's Budget	A6
Anticipated Dates for Construction	A7
Construction Contract	A8
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Definitions**General Conditions**

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Construction Phase Services	GC6
Copyright and Use of Documents	GC7
Liability of the Architect	GC8
Suspension of Services	GC9
Termination of Services	GC10
Payments to the Architect	GC11
Miscellaneous Conditions	GC12
Other Terms of Contract*	GC13*
Signing Space	

** List any documents attached to and forming part of this contract in GC13 Other Terms of Contract.*

The only variance between the 600 and the 601 versions in the Table of Contents above is GC2, which contains the term 'Basic' in the 600 and does not in the 601. The 600 has services divided into Basic and Additional so that there can be a correlation with the percentages for Basic Services indicated in the RAIC Fee Guide. The 601 version does not include a list of services Basic or Additional, as it will have an individualized scope of services.

AGREEMENT

A1 This contract made as of the _____ day of the month of _____ in the year _____.

Enter the operative date of the contract which could be:

- the date an oral agreement was reached;
- the date an interim or letter agreement was executed;
- the date the contract was submitted to the client for signature;
- the date the client first authorized action; or
- the date of execution of the contract.

A2 between the *Client*:

A3 and the *Architect*:

Enter the legal name and address of the *Client* and of the *Architect*. The name of the *Architect* should be the same as that which is registered with the OAA as the holder of the Certificate of Practice.

A4 for the following *Project*:

Enter a detailed description of the *Project* and its characteristics. If applicable, attach and/or make reference to an agreed to functional program or design brief.

A5 The owner, if other than the *Client*, is: _____

This would be applicable in situations such as when the architect is engaged by a professional engineer, a project manager or a contractor who is not the owner. If the *Client* is the owner, enter "Not Applicable" (N/A).

A6 The *Client's* budget for *Construction Cost* is: \$ _____

Refer to the definitions to understand all the components that make up the total *Construction Cost* and GC4.2 for what is to be included in the *Client's* budget and enter the value. Scope of services items GC2.1.3, .4 and .5 describe the process for initial reviews and agreements on the scope and budget.

It is important to understand that the architect designs within a budget for the *Construction Cost* set by the *Client* and that the fees are invariably related to the *Construction Cost*. It is critical for a successful project to establish a reasonable budget at the beginning, which includes *Contingencies*, even if the *Client* will be looking to the *Architect* for estimates as work progresses

A7 The *Client's* anticipated dates for construction are as follows:

.1 Commencement of construction: _____

.2 *Substantial Performance of the Work*: _____

Enter these anticipated milestone dates, which are critical in that a material change to either may affect the fee calculation, any additional services, and/or the *Estimate of Construction Cost* as noted in Article A9, GC3.2.9 and GC11.9.

A8 The anticipated construction delivery type and anticipated construction contract between the owner and the contractor are:

.1 Delivery type: _____

.2 Construction contract: _____

Enter the anticipated construction delivery type and the anticipated form of construction contract. This is important as fees and services may require adjustments due to a change in the construction contract. For example, if the anticipated construction contract is stipulated sum under CCDC 2, and the *Client* changes it to construction management, there could be an adjustment to the services required by the *Architect*, such as preparing and issuing multiple bid packages and/or administering multiple trade contracts each with their own certification. See also GC3.2.2.

A 9 The *Client* and the *Architect* may rely on the initial information contained in Articles A6 to A8. In the event that this information changes materially, or is altered by conditions beyond the control of the *Architect*, the *Client* and *Architect* shall appropriately adjust the schedule, the *Architect's* services and the *Architect's* compensation.

This Article describes the critical basic premise of which both the *Client* and *Architect* need to be cognisant. If the initial information, on which the *Architect's* fees are based, changes, then the compensation, schedule and services need to be revisited.

A10 The *Architect* shall coordinate the services of the following *Consultants*:

.1 engaged by the *Architect*

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.2 engaged by the *Client*

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Identify by discipline and company name the *Consultants* engaged by the *Architect* in Article A10.1 and those engaged by the *Client* in Article A10.2. Two text boxes are provided for additional space. These are the *Consultants* whose services the parties have agreed will be coordinated by the *Architect*. (Refer to definition of *Consultant Coordination*, GC1.1.4 and also to OAA Practice Tip PT.27.)

Should additional consultants be added at a later date, the *Architect* is entitled to an additional fee for the coordination of their services.

Refer to GC4.4.6 & .7 for *Client's* responsibility to engage *Consultants* with terms and conditions compatible with this contract.

The *Client* and the *Architect* should both receive copies of current certificates of the insurance carried by *Consultants* and confirmation of renewals.

A11 For the *Architect's* services the fee shall be computed as follows: (refer also to GC11)

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The scope of basic and additional services is documented in the tables located in GC2 and GC3 in the 600 version or for the 601 version described in GC13 Other Terms of Contract and/or attached as an appendix. Fee information for either version is inserted at Article A11.

The purpose of these tables is two fold:

- to identify the services; and
- to identify the fee or the formulae/method that will be used to calculate the fee for each service.

Fee types, suitable for the specific project, should be established and described, with a legend given for each different fee type. The legend is commonly: F1, F2, F3, F4, etc., as this commentary has been used for the example text. The legend is identified in Article A11 along with the explanatory text. The legend symbols F1, F2, etc. are put into the tables in GC2.1 & GC3.1 as appropriate.

The designations of F1, F2, F3, etc., reflect the methods of calculating *Architect's* fees. They are specific to the project and do not necessarily reflect fees set out on other projects.

Specific lump sum fees for all services cannot always be determined at the time of executing the contract; however, a formulae or method of calculating fees for an indeterminate quantum of service on any particular project can be established and agreed to, such as a percentage of the construction cost or hourly rates. It may be appropriate for the fee to begin as hourly rates for preliminary designs, then change to a percentage for construction documents, and could then change again for services during construction. The important thing is for both the *Client* and the *Architect* to have a good comprehension of the services and the compensation.

It is recommended to include an hourly rates fee for use in the event that the *Client* requires additional services in GC3.1 or should the unforeseen additional services in GC3.2 arise.

Below are examples of wording for the common fee types, which can be copied/pasted for use in Article A11. Legends can be as noted or can be customized. Careful attention to exact wording for fees is stressed.

Users should include in Article A11 an explanation for any abbreviated terms used in the tables such as: NI (not included) or TBD (to be determined). If a symbol such as X or ✓ is used to indicate Yes for Service Provided, this should be identified.

➤ **F1 - Percentage of *Construction Cost* – by Phases.**

In GC2 & GC3 the services to be provided with a Fee Reference of “A” are included for a fee to be computed as _____ percent (_____) % of the *Construction Cost* by phases.

Fees will be calculated on the agreed *Estimate of Construction Cost* at the completion of the schematic phase for the schematic design phase, on the agreed *Estimate of Construction Cost* at the completion of design development phase for the design development phase, on the agreed *Estimate of Construction Cost* at the completion of the *construction documents for the construction documents phase, on the accepted bid price for the*, bidding phase, and on the actual final cost for the construction phase. Fees for previous phases are not adjusted if the value of the estimates or actual *Construction Cost* varies as the project progresses.

Where a change to the *Work* results in a net credit change order (net reduction in the *Construction Cost*), the *Architect* shall be paid on the basis of hourly rates set out in the fee references above. Where the change in the work will result in a net extra change order (net increase in the construction cost), the *Architect* may elect to be compensated for its services either by receiving its percentage fee on the increase in the *Construction Cost* or *Estimate of Construction Cost* or on the basis of the agreed hourly rates.

The F1 type fee – Percentage of *Construction Cost* – by Phases computation is equitable to both parties; whereas the F2 type fee – Percentage of *Construction Cost* – Final introduces significant risk to the parties.

➤ **F2 - Percentage of Construction Cost – Final.**

In GC2 & GC3 the Services to be provided with a Fee Reference of A are included for a fee to be computed as _____ percent (_____) % of the final total *Construction Cost*.

Fees will be invoiced based on the estimates of *Construction Cost* and bid price as applicable, as the project progresses. The final invoice will be adjusted based on the fee calculated on the final total *Construction Cost*, less fees previously billed.

Where a change to the *Work* results in a net credit change order (net reduction in the *Construction Cost*), the *Architect* shall be paid on the basis of hourly rates set out in the fee references above. Where the change in the work will result in a net extra change order (net increase in the construction cost), the *Architect* may elect to be compensated for its services either by receiving its percentage fee on the increase in the *Construction Cost* or *Estimate of Construction Cost* or on the basis of the agreed hourly rates

If the percentage fee based on the final *Construction Cost* for the entire fee is used then either party may be subject to a loss. If the final cost is significantly in excess of the last agreed to estimate of construction cost, the *Client* may be required to pay more than was anticipated. In the alternative, if the final cost is significantly less than was expected, there could be a requirement for the *Architect* to refund the *Client* fees already billed, resulting in a loss to the *Architect* if the changes result in a net credit. Furthermore, it does not provide an equitable arrangement for compensation when deletions are made or alternatives incorporated in subsequent phases.

➤ **F3 - Fixed Fee**

In GC2 & GC3 the services to be provided with a Fee Reference of “B” are included for the lump sum fee of \$_____.

➤ **F4 - Hourly Rates**

In GC2 & GC3 the services to be provided with a Fee Reference of “C” will be invoiced as the Project progresses at the following rates: [or standard hourly rates per attached Appendix ____.]

Principals	\$_____per hour
Senior staff	\$_____per hour
Intermediate staff	\$_____per hour
Junior staff	\$_____per hour
Clerical	\$_____per hour

Standard hourly rates should be included in the contract so that they are documented as agreed and can be used if needed such as for unforeseen circumstances referenced in G3.2.

Fees for Changes to the Work or Services

Changes to the work and additional fees can rarely be avoided. The contract should include an appropriate method of how to deal with fees for any additional services required due to changes.

Fees required for a specific change to the work should always be agreed on prior to the commencement of the additional service for the change.

For percentage based fees

Changes to the *Work* with percentage-based fees is covered in the text for percentage-based fees including where a reduction or elimination of a portion of the project that requires additional time for the *Architect* would normally result in a reduction of fees.

For fixed fees

For fixed fees, care is required by the *Architect* to identify to the *Client* any changes to the original scope of the *Project* and for which the *Architect* may be compensated for the additional services either based on hourly rates or an agreed fixed amount.

A fixed fee may be presented as being based on a percentage of the estimated construction cost at commencement. This computation can include a reasonable amount (percentage) for changes during construction based on experiences of the parties and provided that there is no major project change the fixed fee will include services for changes to the work.

- A12 Where fees are based on a lump sum or percentage of the *Construction Cost* the compensation and invoicing for each phase of services shall be based on the following apportionment of the total fees:

Schematic design phase	(_____)%
Design development phase	(_____)%
Construction documents phase	(_____)%
Bidding or negotiating phase	(_____)%
Construction phase	(_____)%
Total	(_____)%

Enter the percentages appropriate for the *Project*. The standard range and typical percentages used are shown below:

Schematic design phase	12-18%	typically	12.5%
Design development phase	12-18%	typically	12.5%
Construction documents phase	45-49%	typically	45%
Bidding or negotiating phase	2.5-6.5%	typically	5%
Construction phase	25-35%	typically	25%

With new methods of project design and documentation such as Building Information Modeling (BIM) or Integrated Project Delivery (IPD), more documentation and design is done in the earlier phases. Fee allocation in BIM or IPD projects can alter typical phase percentages such as: Schematic design 25%, Design development 25%, and Construction documents 25%.

- A13 An administrative charge of _____ % shall be added to the reimbursable expenses as noted in GC11.2

If the contract provides for this administrative charge, enter the percentage here. In some instances, clients insist on architects carrying the entire cost of reimbursable expenses, including administrative charges within the fee. In this case, after estimating the amount of reimbursable expenses that are anticipated, as part of GC13 Other Terms of Contract, delete this Article and replace it with: "Reimbursable expenses are included in the *Architect's* fees."

If reimbursable expenses are included in the fee or zero percent administrative charge, then the calculated estimate of the *Architect's* expenses, including an appropriate administrative charge, should be added to the fixed fee or increase to the percentage fee.

Many clients will try to negotiate out the administrative charge if separate from the fee. Architects have to recognize and advise that there is a real administrative cost in the assembly, review, and preparation and issuance of the agreed upon pass-through reimbursable cost invoices.

- A14 The rate for calculating automobile travel costs shall be \$_____ per kilometre.

Enter the amount per kilometre that will be invoiced for auto travel. Many practices charge mileage only when it is beyond a stipulated distance from the *Architect's* office. For purposes of calculating the cost per kilometer for automobile travel (should the *Client* not have their own established rates) a fair guide is the published federal government rates that are updated regularly - refer to the [Canadian Revenue Agency website](#).

- A15 The *Client* shall pay to the *Architect*, upon execution of this contract, a retaining fee in the amount of \$_____. This retaining fee shall be credited against the *Architect's* last invoice and is the minimum payment that the *Client* must pay the *Architect* under this contract.

This retaining fee is the payment to the *Architect* for the retention of the *Architect's* services. It is recognition that the *Architect* in accepting this fee has arranged its business affairs and personnel to provide the necessary service for the project.

The retaining fee is more appropriately an advance payment on fees which is to be deducted from the final invoice. An advance payment is appropriately accounted for as a statement of credit to the *Client's* account. However, this is the minimum payment payable under the contract and is non-refundable in the case of early termination of this contract.

- A16 The *Client* shall pay the *Architect* upon receipt of invoices on account of the *Architect's* fee and reimbursable expenses plus applicable taxes. . Invoices shall be issued and submitted monthly unless otherwise agreed.

If invoices are to be issued other than monthly, amend this clause in GC17 Other Terms of Contract with the agreed to invoicing period. On some small, fast-paced contracts, it is appropriate to invoice twice monthly or even weekly. If amending the invoice period, it may be appropriate to also amend the 45-day notice period in GC9.2.

- A17 An unpaid invoice shall bear interest, calculated monthly at the rate of _____ % per annum, commencing _____ days after the date that the *Architect* submits the invoice.

The underlying principle is that the *Architect* is not in the business of funding the *Client's* project. Accordingly, the interest paid to the *Architect* should be more than the interest that the *Client* pays to its lender. This should be reflected in the rate entered here. While a deterrent, the rate ought not to be of usurious proportions.

DEFINITIONS

The following Definitions apply to this contract. References to the singular shall be considered to include the plural as the context requires.

Architect is the entity identified in Article A3 which is the holder of a Certificate of Practice issued by the OAA.

Client is the person or entity identified in Article A2.

Construction Cost is the total cost of the *Work* to the *Client* to construct all elements of the *Project* designed or specified by, or on behalf of, or as a result of, the coordination by the *Architect*, including construction contract price(s), cash allowances included in the construction contracts, building permit fees, changes during construction, contractors general conditions costs, overhead and profit, construction management fees or other fees for the coordination and procurement of construction services, and all applicable taxes, including the full amount of value-added taxes, whether recoverable or not. The *Construction Cost* does not include the compensation of the *Architect* and the *Consultants*, land cost, land development charges or other professional fees, which are the responsibility of the *Client*.

Construction Cost as defined in architect's contracts differs from how it is defined in CCDC construction contracts inasmuch as value added taxes (VAT) are excluded in CCDC contracts, but are included in architect's contracts and the RAIC Fee Guide. The rationale for including the VAT in the fee calculation lies in the derivation of VAT taxes. A portion of VAT is the old PST always included in the CCDC contracts and a portion is the GST, which replaced the 'hidden' 12% federal sales tax on construction materials contained in the construction cost of CCDC contracts. Percentage-based fees for consultants were calculated on the construction cost INCLUSIVE of the federal tax. When the GST was introduced, the 'hidden' tax on materials was eliminated and replaced by the GST applicable to the entire construction cost. Rather than using an increased percentage fee applied to the construction cost exclusive of the HST, it was decided to maintain the same percentage fee and apply it to the construction cost inclusive of the HST.

If the percentage fee is calculated on a lesser construction cost (by excluding the HST which replaced the Federal Sales Tax on construction materials and the provincial sales tax), the fee would be less than the RAIC Fee Guide and thus less than the amount required to meet the architect's costs, overhead and profit to undertake the services for the project.

A percentage fee applied to a project where the 13% HST is excluded requires an increase in the percentage of 1.13 times in order to be equivalent to a percentage fee applied to the construction cost including 13% HST (i.e. 6% increases to 6.78, 8% increases to 9.74% or 10% increases to 11.3%).

Construction Documents consist of drawings, specifications and other documents appropriate to the size and complexity of the *Project*, to describe the size and character of the *Project* including architectural and where applicable structural, mechanical, and electrical systems, materials and such other elements setting forth in detail the requirements for the construction, enlargement or alteration of the building or buildings and any related components comprising the *Project*.

Consultant is a person or an entity engaged by the *Client* or the *Architect* to provide services supplementary to those provided by the *Architect*.

Typically, consultants are professional engineers with a certificate of authorization, holders of a certificate of practice, and perhaps landscape architects, interior designers, specification writers, hardware consultants, and cost consultants. There are a number of other, less commonly used consultants specializing in relatively narrow fields who may be engaged on a project and require coordination. It is important at the outset of a project, especially if the project is large or complex, to ascertain the extent of consultancies that will be involved and the extent of the coordination services that the *Architect* will be required to provide.

Consultant Coordination consists of:

- managing the communications between *Consultants* and with the *Client*, and
- providing direction as necessary to give effect to any design decisions taken, and
- reviewing the product of the *Work* to assist in identifying conflicts and to monitor compliance with directions.

Refer to GC1.1.4, GC8.5 and Practice Tip PT.27 for additional information on coordination.

Contingency means an amount calculated as a percentage of the *Construction Cost* to cover unknowns or changing factors of cost and include: (1) escalation *Contingency* to cover price escalation from the time of an estimate to the time of bidding, (2) design *Contingency* for design development factors prior to construction and (3) construction *Contingency* to cover unforeseen changes during construction.

Electronic Documents are one of the formats in which *Instruments of Service* may be provided by the *Architect*. *Electronic Documents* refer to portable document files (PDF - non-editable) but do not include computer-aided design documents (e.g. CAD or BIM – editable files) unless otherwise agreed in writing.

Estimate of Construction Cost is a statement of the approximate total *Construction Cost* as defined, based on current area, volume or similar conceptual techniques and includes *Contingencies* as defined.

General Review means review during visits to the *Place of the Work* (and where applicable, at locations where building components are fabricated for use at the *Project* site) at intervals appropriate to the stage of the construction that the *Architect* in its professional discretion, considers necessary to become familiar with the progress and quality of the *Work* and to determine that the *Work* is in general conformity with the construction contract documents, and to report, in writing, to the *Client*, contractor and chief building official.

Refer to OAA documents and the Canadian Handbook of Practice (CHOP) for recommended procedures and reporting forms. It is essential for architects providing general review to be able to certify payments and performance responsibly. Therefore it is in the interest of both the *Client* and the *Architect* that the substance of this service be clearly understood.

Instruments of Service are the paper or non-editable *Electronic Documents* which comprise the design, drawings, specifications and reports prepared by or on behalf of the *Architect* or *Consultant*, including but not limited to plans, sketches, drawings, graphic representations and specifications and materials which are prepared for the approval of the *Client* and the authorities having jurisdiction and for construction, but do not include software systems, databases, computer programs, or computer-aided design documents (e.g. CAD or BIM – editable files) unless otherwise agreed in writing.

Unless specifically contracted otherwise, the *Instruments of Service* do not include the *Architect's* files, computations, etc., which remain the *Architect's* personal files.

Place of the Work is the designated site or location of the *Work* identified in the construction contract documents.

Project as described in this contract means the total enterprise or endeavour contemplated of which the *Work* may be the whole or a part.

Substantial Performance of the Work means substantial performance of the contract as defined under the Construction Lien Act. Where the *Place of the Work* is located outside of Ontario, *Substantial Performance of the Work* shall be as defined in the lien legislation applicable to the *Place of the Work*, or in the absence of such legislation it shall mean the date the *Work* is ready for the purpose intended,

Substantial Performance is governed in Ontario by the *Construction Lien Act* (CLA) and will be computed on the basis of the improvement to the property being ready for the purpose intended AND the mathematical formula, defined in the CLA. The payment certifier determines the amount remaining in the contract for incomplete work and correction of determined deficiencies.

Note that “ready for the purpose intended” is interpreted to mean the date the owner takes occupancy for the purpose intended such as furnishing, equipping, training, etc. In the case of a hospital, it is not the date it is patient-ready. In the case of a shopping mall, it is the date the retail is ready for fit up. This interpretation is made on the basis the contractor has no control of the patient ready date, the retail opening date or tenant occupancy date.

Toxic or Hazardous Substances or Materials means any solid, liquid, gaseous, thermal or electromagnetic irritant or contaminant, and includes, without limitation, pollutants, moulds, asbestos, bio-contaminants, biohazards and nuclear, and hazardous and special wastes whether or not defined in any federal, provincial, territorial or municipal laws, statutes or regulations.

Work means the total construction and related services required by the construction contract documents.

Through the CCDC documents, the construction industry has adopted *Work* (italicized) to reflect components of the work, such as trade contractor's work. This contract employs the same distinction.

GENERAL CONDITIONS

GC1 ARCHITECT'S RESPONSIBILITIES

1.1 The *Architect* shall provide professional services as identified in this contract and shall:

- .1 exercise such professional skill and care as would be provided by *Architects* practising in the same area in the same or similar locality under similar circumstances.

This is essentially the standard of care in law.

- .2 perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the *Project*
- .3 identify a representative authorized to act on behalf of the *Architect* with respect to the *Project*,
- .4 include the *Consultant Coordination* of all *Consultants* engaged by the *Architect* and those other *Consultants* engaged by the *Client* listed in Article A10.2,
- .5 maintain records of reimbursable expenses, and for any services for which the fee is computed as a multiple of hourly rates. These records shall be maintained in accordance with generally acceptable accounting standards and made available to the *Client* for review upon request at mutually convenient times,
- .6 utilize key personnel where so identified and request the *Client's* approval of any change, which approval shall not unreasonably be withheld,

When the *Architect* states that key people will be on the team for the project, the *Architect* agrees to keep them on or to notify the *Client*. Of course if a staff member leaves the firm, then the *Architect* cannot be responsible.

- .7 maintain the confidentiality of information so identified and provided by the *Client*, and

The term "so identified" refers to the need for the *Client* to advise which information, if any, is confidential.

- .8 except with the *Client's* knowledge and consent, neither engage in any activity, nor accept any employment, interest or contribution that would unreasonably compromise the *Architect's* professional judgment with respect to the *Project*.

Simply put, architects shall not place themselves in any conflict of interest position as it relates to carrying out responsibilities related to the services provided.

For OAA 601

GC2 ARCHITECT'S SCOPE OF SERVICES

- 2.1 The Architect's services consist of those services performed by the *Architect*, the *Architect's* employees, and the *Architect's Consultants* as described in GC13 Other Terms of Contract or otherwise mutually agreed in writing.

The OAA 600 has check-off tables for Basic and Additional Services GC2.1 and GC3.1, whereas the OAA 601 version has been prepared for the scope of services to be included in GC13 Other Terms of Contract or attached as an appendix.

Users of 601 may consider including a list of possible additional services or not included items for a clearer understanding of what is and is not included in the *Architect's* services.

GC2 ARCHITECT'S SCOPE OF BASIC SERVICES

- 2.1 The *Architect's* Basic services consist of those services performed by the *Architect*, the *Architect's* employees, and the *Architect's Consultants* set forth herein or otherwise mutually agreed in writing. They include the provision of basic structural, mechanical and electrical engineering services by professional engineers when these *Consultants* are engaged by the *Architect*.

The Basic Services table GC2.1 separated from Additional Services table GC3.1 allows a correlation to the percentage fees defined in the RAIC Fee Guide - *A Guide to Determining Appropriate Fees for the Services of Architects*, which are also based on Basic Services.

The purpose of these tables is two fold:

- to identify the services; and
- to identify the fee or the formulae/method that will be used to calculate the fee for each service.

As noted in the commentary for Article A11, a specific fee cannot always be determined or fixed, but a formula or method for calculating the fee for a particular service can and needs to be identified.

A legend for fee types to be used in the contract is identified in Article A11 and legend designations used in the tables. The 600 tables list the service and on the right three columns are provided.

1. The first column in the tables titled "Service Provided" is to be completed by entering a simple yes or no.
2. The second column in the tables titled "Fee Reference" is to be completed by entering the Fee Reference legends established Article A11.
3. The last column can be used for brief notes or reference to numbered notes.

(Indicate in the table below each basic service to be provided by the Architect and the manner of compensation as indicated in Fee Reference for each as identified in Article A11)

2.1	ITEM	Service Provided:	Fee Reference:	Comments
	SCHEMATIC DESIGN PHASE			
.1	Review Program - Review the <i>Client's</i> Program of Requirements and other information furnished by the <i>Client</i> and the characteristics of the site.			
.2	Review Applicable Codes - Review applicable statutes, regulations, codes and by-laws and where necessary review the same with the authorities having jurisdiction.			
.3	<p>Prepare Initial Evaluation - Prepare an initial evaluation of the <i>Client's</i> Program of Requirements, schedule, budget for the <i>Construction Cost</i>, <i>Project</i> site and the proposed procurement or delivery method and other initial information provided by the <i>Client</i> each in terms of the other, to ascertain the requirements of the <i>Project</i>. The <i>Architect</i> shall notify the <i>Client</i> of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the <i>Project</i>.</p> <p>“Initial evaluation” is a term describing traditional activity at the beginning of a new project to establish reasonable congruent parameters of scope, schedule and budget within which the design work proceeds.</p> <p>Inconsistencies often are that a budget is too low or a schedule too short for the project anticipated.</p>			
.4	Review Initial Evaluation - Present and review with the <i>Client</i> the initial evaluation and discuss alternative approaches to design and construction of the <i>Project</i> . The <i>Architect</i> shall reach an understanding with the <i>Client</i> regarding the requirements of the <i>Project</i> .			
.5	<p>Preliminary Concept Design - Based on the <i>Project's</i> requirements agreed upon with the <i>Client</i>, the <i>Architect</i> shall prepare for the <i>Client's</i> approval a preliminary concept design illustrating the scale and relationship of the <i>Project</i> components.</p> <p>“Preliminary concept design” is a new term introduced to go along with the initial evaluation. There is no definition for preliminary design concept as it could be a graphical geometric or only a written concept. It is the prelude in the schematic design phase, which ends with a full schematic design.</p>			
.6	<p>Schematic Design Documents - Based on the <i>Client's</i> approval of the preliminary concept design, mutually agreed upon Program of Requirements, schedule and budget for the <i>Construction Cost</i>, prepare for the <i>Client's</i> review and approval, schematic design documents to illustrate the scale and character of the <i>Project</i> and how the parts of the <i>Project</i> functionally relate to each other including as appropriate:</p> <ul style="list-style-type: none"> • Site Plan • Spatial Relationship diagrams • Floor Plans • Elevations • Building Sections • Outline Specifications 			
.7	Estimate of Construction Cost - Prepare and submit to the <i>Client</i> an <i>Estimate of Construction Cost</i> based on current area or volume unit cost prepared in accordance with GC5.3.			
.8	Submit Schematic Design - Submit the schematic design documents to the <i>Client</i> and request the <i>Client's</i> approval.			

	DESIGN DEVELOPMENT PHASE			
.9	Design Development Documents - Based on the <i>Client's</i> approved schematic design documents and agreed <i>Estimate of Construction Cost</i> , and any <i>Client's</i> authorization of adjustments in the <i>Project</i> requirements and the budget for the <i>Construction Cost</i> prepare for the <i>Client's</i> review and approval, design development documents, drawings and other documents to describe the size and character of the <i>Project</i> including as appropriate the architectural, structural, mechanical, and electrical systems, materials and such other elements: <ul style="list-style-type: none"> • Site Plan • Floor Plans • Elevations • Building Sections • <i>Project</i> brief detailing area calculations, building systems and outline specifications 			
.10	Continue Review of Applicable Codes - Continue to review applicable statutes, regulations codes and by-laws as the design of the <i>Project</i> is developed and where necessary review the same with the authorities having jurisdiction.			
.11	Update Estimate of Construction Cost - Prepare and submit to the <i>Client</i> for approval an updated <i>Estimate of Construction Cost</i> .			
.12	Submit Design Development - Submit the design development documents to the <i>Client</i> , advise the <i>Client</i> of any adjustments to the <i>Estimate of the Construction Cost</i> and request the <i>Client's</i> approval.			
	CONSTRUCTION DOCUMENTS PHASE			
.13	Drawings and Specifications - Based on the <i>Client's</i> approved design development documents and agreed updated <i>Estimate of Construction Cost</i> , prepare for <i>Client's</i> review and approval, <i>Construction Documents</i> consisting of drawings and specifications setting forth in detail the requirements for the construction of the <i>Project</i> .			
.14	Review Applicable Codes - Review statutes, regulations, codes and by-laws applicable to the design and, where necessary, review the same with the authorities having jurisdiction in order that the consents, approvals, licences and permits necessary for the <i>Project</i> may be obtained.			
.15	Bidding Information - Obtain instructions from and advise the <i>Client</i> on the preparation of the bidding information, bidding forms, conditions of the construction contract and the form of construction contract between <i>Client</i> and contractor.			
.16	Update Estimate of Construction Cost - Update the <i>Estimate of Construction Cost</i> .			
.17	Submit Construction Documents - Submit the <i>Construction Documents</i> to the <i>Client</i> , advise the <i>Client</i> of any adjustments to the <i>Estimate of Construction Cost</i> , including adjustments indicated by changes in requirements and general market conditions; take any action required under GC5.2 and request the <i>Client's</i> approval.			
	PERMITS AND APPROVALS			
.18	Building Permit Application - Prepare documents for building permit application, for owner's signature as applicant and assist with submission of the application. Although there is a space on permit applications for signing "as agent of the owner" and architects have in the past done this, owners have serious obligations to the municipality, which architects should not take on. Insurers advise that the situation is to be avoided simply by having the owner sign the application; they do not have to personally submit the permit application. If architects are to act as agent of the owner, they should have a signed indemnification. Wording for this can be obtained from legal counsel or the Pro-Demnity Bulletin regarding it.			
	BIDDING/NEGOTIATION PHASE			
.19	Bidding/Negotiation - Following the <i>Client's</i> approval of the <i>Construction Documents</i> and the latest agreed <i>Estimate of Construction Cost</i> : assemble and provide bid documents to bidders, monitor and respond to enquiries regarding bid requirements, prepare and process addenda during bidding, arrange for receipt of bids, opening of bids, comparative review and report results for <i>Client's</i> direction on award. Assist the <i>Client</i> with			

	construction contract negotiations, prepare construction contracts and assemble construction contract documents for signature by the contracting parties.			
	CONSTRUCTION PHASE			
.20	<p>General Review - Provide <i>General Review</i> services during construction; examine, evaluate and report upon representative samples of the <i>Work</i>; keep the <i>Client</i> informed of the progress and quality of the <i>Work</i>; report defects and deficiencies in the <i>Work</i> observed during the course of the site reviews; and report in writing to the <i>Client</i>, contractor and chief building official.</p> <p>Previous versions of OAA 600 included a Limited General Review clause to “Provide General Review services respecting building code matters only, and report in writing to the <i>Client</i>, contractor and chief building official.” If the <i>Architect</i> is only engaged to do limited <i>General Review</i> for code matters only, the <i>Architect</i> cannot certify payments or <i>Substantial Performance of the Work</i> as they would not have appropriate knowledge of values or non code related <i>Work</i> completed at any point during construction. Separation of code and non-code matters is a grey area in many instances and therefore should be avoided.</p>			
.21	Site Meetings - Attend site meetings with contractor, major sub-contractors and <i>Consultants</i> , where appropriate, to review the progress of the <i>Work</i> .			
.22	WSIB Certificates, Bonds and Insurance Policies - Arrange to receive from the contractor, as required under the construction contract, WSIB certificates, bonds and insurance policies and deliver to <i>Client</i> for <i>Client’s</i> bond and insurance advisors to review.			
.23	<p>Construction Schedule - Receive construction schedule from contractor, review and forward to <i>Client</i>.</p> <p>The review of the construction schedule by the <i>Architect</i> should contain caveats that the review is only an overview. This signifies that the <i>Architect</i> is not expert in construction methods and the responsibility for the schedule and its maintenance lies with the contractor.</p>			
.24	Schedule of Values - Receive schedule of values from contractor, review and adjust, if required. Advise both <i>Client</i> and contractor that the agreed schedule of values will form the basis for factoring percentage of <i>Work</i> completed into certificates for payment.			
.25	Payment Certification - When engaged to provide <i>General Review</i> , receive and assess contractor’s applications for payment; determine the amounts owing to the contractor under the construction contract based on the <i>Architect’s</i> observations and evaluation of the contractor’s applications for payment having factored percentage of completeness against the contractor’s schedule of values and issue certificates of payment to the <i>Client</i> in the value proportionate to the amount of the construction contract, of work performed and products delivered to the <i>Place of the Work</i> .			
.26	Construction Contract Documentation Interpretation - On the written request of either the <i>Client</i> or the contractor, render written interpretations and findings within a reasonable time, consistent with the intent of and reasonably inferable from the construction contract documents, showing partiality to neither the <i>Client</i> nor the contractor, on claims, disputes and other matters in question between the <i>Client</i> and the contractor relating to the execution or performance of the <i>Work</i> or the interpretation of the construction contract documents.			
.27	Shop Drawings and Submittals - Review and take other appropriate action with reasonable promptness upon such contractor’s submittals as shop drawings, product data, and samples, for conformance with the general design concept of the <i>Work</i> as provided in the construction contract documents.			
.28	Supplemental Details and Instructions - Prepare and issue additional documents and supplemental instructions to the contractor, as required for clarification of the requirements of the contract documents, with reasonable promptness or in accordance with a schedule for such instructions agreed to by the <i>Architect</i> and the contractor.			

.29	<p>Requests for information (RFI's) - Receive requests for information (RFI's) from contractors and process accordingly.</p> <p>The intention of the above is that the <i>Architect</i> and <i>Consultants</i> respond to and process all RFIs. In the cases that (in the <i>Architect's</i> opinion) many unnecessary RFIs are received (e.g. items which are readily found in the documents) it would be advisable to meet with the contractor and <i>Client</i> in an attempt to reduce the instances of the issuance and receipt of the unnecessary RFIs.</p>			
.30	<p>Proposed Change Notices/Change Orders and Change Directives - Prepare proposed change notices drawings, specifications and supporting data, evaluate contractor's proposals; prepare change orders and change directives for the <i>Client's</i> approval and signature in accordance with the construction contract documents.</p>			
.31	<p>Inspection & Testing Services - Provide assistance in having inspection and testing companies perform services as required by the construction contract documents, receive and review their reports and report to <i>Client</i>.</p>			
.32	<p>Substantial Performance and Completion - As payment certifier prepare and issue at the appropriate time, a certificate of <i>Substantial Performance of the Work</i> and a statement of construction contract deemed completion in accordance with the provisions of the <i>Construction Lien Act</i>.</p> <p>Remember that under the provisions of the CLA and the CA, if the <i>Architect</i> is not the payment certifier, the <i>Architect</i> may not issue the certificate of substantial performance. In the absence of a payment certifier, the <i>Client</i> and the contractor may jointly issue the certificate. When issuing the certificate of substantial performance use only the CA Form 9 and enter the information requested on the form. Be particularly careful to enter the correct legal description of the property and not the street address only. Obtain the legal description of the property from the <i>Client</i>. Refer also to Practice Tip PT.10. series</p>			
.33	<p>Contractor's Documentation at Completion - Receive from the contractor and forward to the <i>Client</i> for the <i>Client's</i> acceptance the written warranties and related documents as required under the construction contract.</p>			
.34	<p>Takeover Procedure - Arrange for takeover of the <i>Project</i> by the <i>Client</i> including demonstration of operating equipment, handover of operating and maintenance manuals and replacement parts as specified.</p> <p>The OAA recommends the use of OAA/OGCA Take-over Procedures Document 100 which can be specified as requirements in Division 01 of the Project Manual specifications and the OAA/OGCA Guide to Close Out Procedures.</p>			
.35	<p>Twelve Month Warranty Review - Prior to the end of the period of one year following the date of <i>Substantial Performance of the Work</i>, review any defects or deficiencies which have been reported or observed during that period, and notify the contractor in writing of those items requiring attention by the contractor to complete the <i>Work</i> in accordance with the construction contract between the owner and contractor.</p>			

For OAA 601

GC3 PROVISION OF ADDITIONAL SERVICES

- 3.1 Additional Services are those services not included at the time of execution of this contract. Additional Services may be provided after execution of this contract, without invalidating the contract. Any Additional Services provided shall entitle the *Architect* to compensation at hourly rates identified in Article A11 unless mutually agreed otherwise.

The OAA 601 form of contract has been prepared for the scope of services to be included in GC13 Other Terms of Contract or attached as an appendix.

Users of 601 may consider including a list of possible additional services or not included items for a clearer understanding of what is and what is not included in the *Architect's* services.

GC3 PROVISION OF ADDITIONAL SERVICES

- 3.1 The Additional Services listed below are not included in the *Architect's* basic services. The *Architect* shall provide the Additional Services indicated in the table below and the *Client* shall compensate the *Architect* in the manner indicated by Fee Reference and Article A11.

Listed in the Table GC3.1 below are services normally attributable as Additional services to those listed in the Basic services table in GC2.1. There will be services that are either not applicable or provided by others or other than those listed depending on the project particulars and as the result of negotiations between the *Client* and the *Architect*.

Refer also to commentary for GC2.1 for filling in the table.

(Indicate in the table below Additional Services to be provided by the *Architect* and the manner of compensation as indicated in Fee Reference for each identified in Article A11)

3.1	ITEM	Service Provided:	Fee Reference:	Comments
	PRE-DESIGN SERVICES			
.1	Pre-Design Study - Provide pre-design study or services such as: to assist with analyzing the reasonable probability of the <i>Client's</i> objectives for the <i>Project</i> being reached within the <i>Client's</i> budget and advise on measures to align the <i>Project</i> requirements with the budget, assess the suitability of the <i>Client's</i> site to accommodate the <i>Project</i> taking into account known site constraints, ability to support future additions, and potential impact of known proposed developments in the vicinity.			
.2	Multiple Sites – Provide pre-design site evaluations, planning surveys, or comparative studies of a number of multiple prospective sites.			
.3	Programming – Provide analyses of the <i>Client's</i> needs and prepare a written Program of Requirements as described in GC4.1.			
.4	Verifying Drawings - Review drawings furnished by the <i>Client</i> , visit site and take measurements to satisfy that drawings are reasonably accurate in their representation of the premises.			
.5	Measured Drawings - Confirm with the <i>Client</i> the purpose of the measured drawings and the accuracy required, make measurements, augment with photographs and field notes as appropriate and prepare drawings.			
.6	Survey, Geotechnical or Hazardous Materials - Assist the <i>Client</i> in the engagement of a <i>Consultant</i> to obtain survey, geotechnical or hazardous materials reports referred to in GC4.3			

	GENERAL SERVICES, ALL APPLICABLE PHASES			
.7	Detailed Estimates of Construction Cost - Provide detailed <i>Estimates of Construction Costs</i> .			
.8	Detailed Quantity Surveys, Inventories, Operating Costs - Provide detailed quantity surveys, inventories of material and equipment, or analyses of owning and operating costs.			
.9	Future Facilities - Provide services relating to future facilities, systems and equipment not included in the <i>Construction Cost</i> .			
.10	Provision of Interior Design Services - Provide or engage the services of an interior designer to provide interior design services commensurate with other architectural services under this contract.			
.11	FF&E - Provide services for the selection and installation of furniture, fixtures and equipment (FF&E), including re-use of <i>Client's</i> inventoried FF&E.			
.12	Signage - Provide services for design, selection, procurement and installation of graphics, signage and similar elements for interior or exterior application.			
.13	Tenant Related Services – Provide tenant layout and design services or documents not otherwise included in fees.			
.14	Marketing - Prepare promotional presentations or special marketing materials.			
.15	Model/Rendering/Video - Provide specifically commissioned physical model (maquette), architectural rendering, computer rendering or video, which become the property of the <i>Client</i> .			
.16	Photography - Provide specially commissioned photography or photographic records of site, existing conditions, construction or other.			
.17	Language Translation - Provide language translation services for <i>Construction Documents</i> or other documents.			
.18	Value Engineering - Provide services in connection with value engineering or analysis.			
	PERMITS AND APPROVALS			
.19	Special Approvals of Authorities - Provide studies, prepare drawings and other documents, attend meetings or public hearings, arrange for engagement of specialist <i>Consultants</i> if required and assist <i>Client</i> in submission of application for: Due to the extent of unknowns with these services and the discretionary authority of those giving approvals, hourly rate fees are recommended.			
.1	Zoning or Land Use Amendment:			
.2	Committee of Adjustment or variance from by-laws:			
.3	Site Plan Approval:			
.4	Other Approvals: (list and describe)			
	BIDDING/NEGOTIATION PHASE			
.20	Pre-qualification of Bidders - Prepare parameters of pre-qualification process, advise participants of rating criteria, receive responses from interested parties, prepare analysis spreadsheet and report results to <i>Client</i> for <i>Client's</i> decision.			
.21	Multiple Bid Packages - Provide services and prepare multiple bid document packages in connection with alternative, separate or sequential bidding or negotiation of trade contracts. Clarify responsibilities for additional printing costs for additional bid packages.			

.22	Issued for Construction Drawings - Prepare Issued for Construction drawings incorporating relevant addenda or negotiated changes during bid/negotiation phase.			
	CONSTRUCTION PHASE			
.23	Additional On-Site Representation – Provide extensive or full-time on-site review or representation. For purposes of calculating this service, “extensive” is taken to mean on-site representation beyond that required as a Basic service.			
.24	Multiple Contracts - Provide additional construction contract administration services in connection with Construction Management, Fast track or Design Build delivery.			
.25	Multiple Phases - Provide services in connection with multiple phased occupancies. This normally calls for services related to partial occupancy of the project and closeout on more than the one occasion. Basic services assume one occupancy at substantial performance or completion of the project. Additional work is required to carry out services related to occupancy in cases of multiple occupied phases of the work.			
.26	Client’s Own Forces - Coordinate work performed by the <i>Client’s</i> own forces and coordinate the services required in connection with construction performed and equipment supplied by the <i>Client</i> .			
.27	Updated Drawings - Prepare Updated Drawings incorporating supplemental instructions, change orders and other changes issued during construction.			
.28	Record Drawings - Prepare Record Drawings incorporating changes in the <i>Work</i> made during construction based on as-built drawings (marked-up prints), drawings, and other data furnished by the contractor to the <i>Architect</i> ; the accuracy of the information supplied by the contractor shall not be the responsibility of the <i>Architect</i>			
.29	Commissioning - Provide services related to commissioning in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training operation or maintenance personnel for operation and maintenance and consultation during operation. This activity will result in the <i>Architect</i> being involved in more meetings and coordination activities than anticipated in Basic services.			

- 3.2 Upon recognizing the need to perform the following unforeseen Additional Services the *Architect* shall notify the *Client* with reasonable promptness explaining the facts and circumstances. The *Architect* shall not proceed to provide the following services until the *Architect* receives the *Client’s* written authorization. Compensation shall be at hourly rates identified in Article A11 unless mutually agreed otherwise. This shall include providing services, reviewing, evaluating, revising or providing additional drawings or specifications including proposed change notices, change orders, change directives or other documents which are:

The above and following clauses are included in the contract to establish an agreed upon protocol in regard to the approval of additional fees for services that become necessary but are unforeseen at the time of contract execution.

It is not possible to anticipate and calculate a fee in situations where the amount of services required are unknown and depend on factors beyond the control of the *Architect*. It is unreasonable to expect an architect to calculate a fair and reasonable fee for services which are indefinable and can vary, for example, from a small number of hours to literally hundreds of hours of professional input.

- .1 caused by instructions that are inconsistent with instructions or written approvals previously given by the *Client*, including revisions made necessary by adjustments in the *Client’s* Program of Requirements or budget for *Construction Cost*;
- .2 required because of significant changes to the *Project*, including size, quality, complexity, the *Client’s* schedule, or the method of bidding or negotiating and contracting for construction;

- .3 caused by the enactment or revisions of statutes, regulations, codes or by-laws, subsequent to the preparation of such documents;
- .4 caused by an interpretation by the authorities having jurisdiction which differs from the *Architect's* interpretation of statutes, regulations, codes and by-laws, which difference the *Architect* could not have reasonably anticipated;
- .5 due to changes required as a result of the *Client's* failure to render decisions in a timely manner;
- .6 in connection with evaluating substitutions proposed by the contractor and making subsequent revisions to the drawings, specifications and other documentation resulting from them;
- .7 required to evaluate an extensive or unreasonable number or size of claims or requests for information (RFI's) submitted by the contractor or others in connection with the *Work*;

"Extensive" relates to the concept of enlargement in scope or operation.

The use of the terms "extensive number" or "extensive size" of claims implies that some level of service with regard to claims, disputes or other matters in question between the *Client* and the contractor relating to the execution or performance of the *Work* is considered part of the *Architect's* Basic service. However, the contract leaves open the question of what is "extensive." During contract negotiations, discuss with the *Client* in order to arrive at a mutual understanding of what is part of Basic service and what will be Additional services.

- .8 due to replacement of any of the *Work* damaged by fire or other cause during construction and furnishing services as may be required in connection with the replacement of such work;
- .9 made necessary by the default of the contractor, by major defects or deficiencies in the *Work* of the contractor, by failure of performance by either the *Client* or the contractor under the construction contract;
- .10 requested by the *Client* in connection with any mediation, arbitration proceeding, or legal proceeding; or
- .11 made necessary by the extension of the anticipated dates for construction described in Article A7.

Should the construction period extend beyond the date identified in the owner/contractor contract, for reasons beyond the control of the *Architect*, the *Architect* will be reimbursed for construction phase services for the period of the extension.

GC4 CLIENT'S RESPONSIBILITIES

- 4.1 The *Client* shall provide full information regarding the requirements for the *Project* including the *Client's* *Project* objectives, constraints and criteria and a written Program of Requirements including spatial and functional requirements and relationships, flexibility, expandability, special equipment, systems, and site requirements.
- 4.2 The *Client* shall initially establish and periodically update a budget for the *Construction Cost* of the *Project* which includes *Contingencies* for (1) escalation, (2) design and (3) unforeseen changes during construction. If the *Client* significantly increases or decreases the budget for the *Construction Cost* the *Client* shall notify the *Architect*. The *Client* and *Architect* shall thereafter agree to a corresponding change in the *Project's* size and quality.

Should this occur, the *Architect's* compensation may be amended as well. Refer to GC3.2.1.

- 4.3 The *Client* shall provide information, surveys, reports and services as set out below, the accuracy and completeness of which the *Architect* shall be entitled to rely upon and such contracts for the provision of information, surveys, reports and services, whether arranged by the *Client* or the *Architect*, shall be considered direct contracts with *Client* unless explicitly provided otherwise:
 - .1 surveys describing physical characteristics, legal limitations and utility locations for the *Project* site, and a written legal description of the site and adjoining properties as necessary showing the following survey and legal information, as applicable: grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights of way; restrictions; easements; encroachments; zoning; deed restrictions; boundaries and contours of the site; locations, dimensions and data pertaining to existing buildings, other improvements, and trees; and information concerning utility services, both public and private, above and below grade, including inverts and depths;

- .2 subsurface investigation and reports which include but are not limited to test borings, test pits, determination of soil bearing values, percolation tests, a list of and evaluations of *Toxic or Hazardous Substances or Materials* present at the *Place of the Work*, ground corrosion and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate professional recommendations; and
- .3 air and water pollution tests, tests for *Toxic or Hazardous Substances or Materials*, structural, mechanical, chemical, and other laboratory and environmental tests, inspections, laboratory and field tests and reports as required by the *Architect*, the *Architect's Consultants*, the authorities having jurisdiction or the construction contract documents.

It is the *Client's* responsibility to provide the *Architect* with the relevant information about the existing condition of the property. Further, the *Architect* and the *Architect's consultants* involved in the design services must have the right to rely upon the accuracy of the information provided.

It is possible for the *Architect* and their *Consultants* to assist in defining the scope of the information required for their purposes at the outset of the project and/or as it evolves. This assistance should not be construed as changing the underlying principle that the *Client* is responsible for all information about the existing condition of the property; the *Architect* is responsible for the changes it designs to the *Client's* property.

In regard to items .1, .2, and .3 above, architects should acquaint themselves and the *Client* with the Pro-Demnity Bulletin dated April 2008 titled "*Retention of Specialists to meet Owner's Obligations*"

4.4 The *Client* shall:

- .1 authorize in writing a person to act on the *Client's* behalf and define that person's scope of authority with respect to the *Project* when necessary. In the absence of such naming of an authorized representative, the signatory to this contract is deemed to be the representative;

It is essential for the success of the project that clients be represented by one individual through whom communications between the *Client* and the *Architect* are processed. This is particularly important when the clients are represented by a group of individuals such as a board or building committee with differing ideas about the project. It is not uncommon to experience major redesign and substantial delays when several individuals with disparate views officially represent the client.

- .2 review documents submitted by the *Architect* and give the *Architect* timely decisions for the orderly progress of the *Architect's* services;

It is prudent to arrange with the *Client* at early stages when approvals will be required for smooth flow of services and to meet production schedules. Different clients will have varying abilities to read and understand drawings. Some may require more assistance for the *Architect* to be satisfied that the *Client* understands the information contained in the documents needing the *Client's* approval prior to proceeding to the next phase of the architectural services.

- .3 sign applications for permits as the owner, or if the *Client* is not the owner arrange for the owner to sign and pay for the building permit and all other permits and development costs;

Although the *Client* officially is the recipient of the building permit, the *Architect* may assist the *Client* in this role and may be the entity that submits the application for building permit on the *Client's* behalf.

- .4 immediately notify the *Architect* in writing if the *Client* observes or otherwise becomes aware of any fault or defect in the *Project* or any nonconformity with the requirements of the construction contract;

The more trained eyes that review construction, the better the result. Unless on site full time (Additional service), architects and consultants review construction periodically on a random sampling basis. If *Clients* observe anything that appears to be a problem or may be covered up prior to the next time the *Architect* or the *Consultants* will be on site, it is to the *Client's* advantage to inform the *Architect* as soon as possible. Standard CCDC construction contracts provide for all communications between client and contractor flow through the architect. Accordingly, it should be made clear that the *Client* should not separately and independently instruct the contractor, the contractor's personnel and sub trades especially when it involves changes to the work.

- .5 engage *Consultants* identified in Article A10.2 of this contract under terms and conditions of other contracts that are compatible with this contract;

The *Architect* should reinforce to the *Client* the importance of this Article, particularly if the *Architect* is, as is often the case, required to coordinate the services of *Consultants* engaged directly by the *Client*.

- .6 ensure that all *Consultants* engaged by the *Client* under other contracts carry professional liability insurance coverage;

Unlike architects in Ontario, not all consultants are required by legislation to carry professional liability insurance. Notwithstanding certain exceptions, the *Client* will be best advised to require that all consultants engaged by them carry adequate insurance for their services and to obtain proof of insurance where possible.

- .7 provide any legal, accounting and insurance counselling services as may be necessary at any time for the *Project*, including such auditing services as the *Client* may require to verify the contractor's applications for payment or to ascertain how or for what purpose the contractor uses the monies paid by or on behalf of the *Client*; and
- .8 provide reports and appropriate professional recommendations of specialist *Consultants* if required by the *Architect*.

- 4.5 The *Client* agrees that, should the construction contract include provision that any dispute between the *Client* and the contractor may be finally resolved by arbitration, the construction contract shall include provisions satisfactory to the *Architect* that:

- .1 require the *Client* and contractor to notify the *Architect* in writing of any arbitration and of any matters in dispute that affect the *Architect*;
- .2 provide that, upon receipt of the notice in GC4.5.1 above, the *Architect* shall have the option to participate in the arbitration as a party;
- .3 provide that, in the event that GC4.5.1 and GC4.5.2 above are not complied with, the *Client* and contractor agree to not pursue any claim against the *Architect* arising from matters resolved by the arbitration.

GC4.5 addresses issues relative to requirements under the construction contract that deal with alternative dispute resolution and the role and liability of the *Architect* in that process. The OAA and Pro-Demnity Insurance Company advise modifying the pertinent CCDC documents by Supplementary Conditions. Refer to OAA Practice Tip PT.23 series for recommended changes to CCDC documents regarding this subject. The words "provisions satisfactory to the architect" would mean the recommended language provided in these Practice Tips or as prepared by the architect's own lawyer.

GC5 BUDGET, ESTIMATES AND CONSTRUCTION COST

- 5.1 The *Client*' budget for the *Construction Cost* is provided initially and may be adjusted throughout the *Project* as required under GC4.2. Initial evaluations of the *Client*'s budget for the *Construction Cost*, the preliminary *Estimate of Construction Cost* and updated *Estimates of Construction Cost* where prepared by the *Architect*, represent the *Architect*'s judgement as a design professional. It is recognized however that neither the *Architect* nor the *Client* has control over the cost of labour, materials or equipment, over the *Contractor*'s methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly the *Architect* cannot and does not warrant or represent that bids or negotiated prices will not vary from the *Client*'s budget for the *Construction Cost* or from any *Estimate of Construction Cost* or evaluation prepared or agreed to by the *Architect*.

Where a cost consultant is engaged by the *Client*, the scope of *Client*'s estimator's services should be compared to services in the contract and where applicable revisions to GC5 or other parts of the contract should be made using GC13 Other Terms of Contract.

- 5.2 If at any time the *Architect*'s *Estimate of Construction Cost* exceeds the *Client*'s budget for the *Construction Cost*, the *Architect* shall make appropriate recommendations to the *Client* to adjust the *Project*'s size, quality or budget for the *Construction Cost*, and the *Client* shall cooperate with the *Architect* in making such adjustments.
- 5.3 When engaged to provide *Estimates of Construction Cost*, the *Architect* shall be permitted to include *Contingencies* for (1) escalation (2) design and (3) unforeseen changes during construction. The *Architect*'s *Estimate of Construction Cost* shall be based on current area, volume or similar conceptual techniques. If the *Client* requests detailed cost estimating services, the *Architect* shall provide such services as an Additional Service.
- 5.4 If the bidding or negotiation phase has not commenced within three months after the *Architect* submits the *Construction Documents* to the *Client*, the agreed *Estimate of Construction Cost* shall be adjusted to reflect changes in the general level of prices in the construction industry between the date of submission of the *Construction Documents* to the *Client* and the date on which bids or proposals are sought.
- 5.5 If the lowest compliant bid or lowest negotiated proposal exceeds the latest agreed *Estimate of Construction Cost* the *Client* shall provide:
- .1 written approval of an increase in the budget for the *Construction Cost*, or
 - .2 authorization for re-bidding or re-negotiating of the proposal, or
 - .3 co-operation with the *Architect* in revising the *Project* size or quality as necessary to reduce the *Construction Cost*, or
 - .4 termination of this contract in accordance with GC10 if the *Project* is abandoned.
- 5.6 If the *Client* proceeds under GC5.5.3, and the extent to which the lowest compliant bid or lowest negotiated proposal exceeds the latest agreed *Estimate of Construction Cost* by more than 15% and is not due to extraordinary market conditions or other factors not reasonably foreseeable by or under the control of the *Architect*, then the *Client* may require the *Architect* to modify the *Construction Documents* or provide other services necessary to reduce the *Construction Cost* to within 15% of the latest agreed *Estimate of Construction Cost* for no additional fee. Such modification of the *Construction Documents* to that extent shall be the limit of the *Architect*'s responsibility under GC5.5.3, and having made such modifications, the *Architect* shall be entitled to compensation in accordance with this contract, for all other services performed, whether or not the construction phase is commenced.
- 5.7 Where the latest agreed *Estimates of Construction Cost* referred to in GC5.6 are provided by a *Consultant* engaged by the *Client*, modifications to the *Construction Documents* described in GC5.6 shall be an Additional Service.

GC6 CONSTRUCTION PHASE SERVICES

- 6.1 The extent of the duties, responsibilities and limitations of authority of the *Architect* as the *Client's* representative during construction shall be modified or extended only with the written consent of the *Client* and the *Architect*.
- 6.2 When engaged for services during the construction phase the *Architect* shall:
- .1 be a representative of the *Client*;
 - .2 advise and consult with the *Client*;
 - .3 have the authority to act on the *Client's* behalf to the extent provided in this contract, have access to the *Work* at all times wherever it is in preparation or progress;
 - .4 forward all instructions from the *Client* to the contractor;
 - .5 have the authority to reject *Work* which does not conform to the construction contract documents, and whenever, in the *Architect's* opinion, it is necessary or advisable for the implementation of the intent of the construction contract documents, have the authority to require special inspection or testing of *Work*, whether or not such *Work* has been fabricated, installed or completed; and
 - .6 have the authority to order minor adjustments in the *Work* which are consistent with the intent of the construction contract documents, when these do not involve an adjustment in the construction contract price or an extension of the construction contract time.
- 6.3 When engaged to provide payment certification, the issuance of a certificate for payment shall constitute a representation by the *Architect* to the *Client*, based on the *Architect's General Review* and on review of the contractor's schedule of values and application for payment, that the *Work* has progressed to the value indicated; that to the best of the *Architect's* knowledge, information and belief, the *Work* observed during the course of *General Review* is in general conformity with the construction contract documents and that the contractor is entitled to payment in the amount certified. Such certification is subject to:
- .1 review and evaluation of the *Work* as it progresses for general conformity as provided in the services described in this contract;
 - .2 the results of any subsequent tests required by or performed under the construction contract documents;
 - .3 minor deviations from the construction contract documents being corrected prior to completion; and
 - .4 any specific qualifications stated in the certificate for payment.

The *Architect's* role in the certification for payment process is to ascertain the extent of the construction that has been completed in general accordance with the construction contract documents in conjunction with *Consultants* where applicable.

At the beginning of the work, the *Architect* and the *Client* review the schedule of values prepared and submitted by the contractor. The schedule of values is intended to be an accurate and fair representation of the percentage that each component is of the total construction cost.

The monthly payment certification process entails a review on site of the application for payment submitted by the contractor. An application for payment is divided into multiple components, each describing the percentage completion of the general contractor's General Conditions and trade contractor's work and presented in a similar format as the schedule of values.

Refer to OAA documents for additional information and standard forms.

- 6.4 The issuance of the certificate for payment shall not be a representation that the *Architect* has made any examination to ascertain how and for what purpose the contractor has used the monies paid on account of the contract price, or that the contractor has discharged the obligations imposed on the contractor by law, or requirements of the Workplace Safety Insurance Board, or other applicable statute, non-compliance with which may render the *Client* personally liable for the contractor's default.

GC7 COPYRIGHT AND USE OF DOCUMENTS

- 7.1 Copyright for the *Architect's Instruments of Service* belongs to the *Architect*. The *Architect's Instruments of Service* shall remain the property of the *Architect* whether the *Project* for which they are made is executed or not, and whether or not the *Architect* has been paid for the services. Alteration of the *Architect's Instruments of Service* by the *Client* or any other person is prohibited without a written license from the *Architect*.
- 7.2 Submissions or distribution of the *Architect's Instruments of Service*, including all *Electronic Documents*, to meet official regulatory requirements or for other purposes in connection with the *Project* is not to be construed as publication in derogation of the *Architect's* reserved rights.
- 7.3 The *Client* may retain copies of the *Architect's Instruments of Service*, including non-editable *Electronic Documents*, for information and reference in connection with the *Client's* use and occupancy of the *Project*.
- 7.4 Copies of the *Architect's Instruments of Service* may be used only for the purposes intended and for a one-time use, on the same site, and for the same *Project*, by this *Client* only and may not be offered for sale or transfer without the express written consent of the *Architect*. The *Architect's Instruments of Service*, including non-editable *Electronic Documents*, may be used for renovations, additions or alterations to this *Project*, but shall not be used for renovations, additions or alterations to any other project without a written licence from the *Architect* permitting the use of the *Instruments of Service* for such additional purposes.
- 7.5 As a condition precedent to the use of the *Architect's Instruments of Service* for the *Project*, all fees and reimbursable expenses, including all fees and expenses of suspension or termination, due to the *Architect*, are required to be paid in full.

In some instances, clients require that copyright in the *Instruments of Service* be assigned to them. In many instances, the reasons cited by the client can be resolved without the assignment of copyright, but rather a licence specifically stating the purpose of the assignment and the related terms and conditions for its use.

In some rare cases, it may actually be necessary to assign copyright to a client. If this does occur, it must be done in writing. As well, architects should take care in requiring that consultants engaged by them are also bound to the same terms and conditions and will arrange for transfer of their copyright in a similar fashion. The Canadian Handbook of Practice and RAIC Practice Builder 19 – *The Exchange and Transfer of Electronic Documents* provide useful information on electronic transfer and assignment of copyright. Legal advice should be sought in effecting such assignments and whether the consultants should transfer their copyright to their client (the architect) in the first instance or directly to the *Architect's Client*.

CONTRACT WORDING – When the client requires CAD files for future use in managing the facility:

Add the following GC7.6:

"If requested by the *Client*, the *Architect* shall provide editable CAD or BIM drawings and shall grant a limited licence to the *Client* to use the editable drawings for management of the facility including any future additions, renovations, or alterations."

Add the following GC7.7:

"As a condition precedent to the use of the editable CAD or BIM drawings the *Client* agrees that use of the editable drawings is at the *Client's* own risk. The *Client* agrees to indemnify and save harmless the *Architect*, his/her employees, agents and consultants from and against all claims, losses, demands, costs and expenses (including legal fees), damages or recoveries (including any amounts paid in settlement) arising by reason of, caused by, or alleged to be caused by, the *Client's* reliance on the editable CAD or BIM drawings."

Add the following GC7.8:

"To facilitate the *Client's* use of the facility, including any modifications, the *Architect* waives the "moral rights" which they have in the *Project*. The term "moral rights" has the same meaning given to it in the *Copyright Act* (Canada)."

CONTRACT WORDING: When a client requests ownership of copyright because of concern the architect will provide similar design to another client the following may be used rather than assigning the copyright:

Add the following GC7.9

"The *Architect* undertakes not to design another project which is substantially identical in design features to this *Project*."

GC8 LIABILITY OF THE ARCHITECT

- 8.1 The *Architect* carries professional errors and omissions liability coverage, and the policy is available for inspection by the *Client* upon request.

In most instances it is only necessary to provide the certificate of insurance available from Pro-Demny and other insurers with the commercial information removed or whited out.

- 8.2 The *Client* agrees that any and all claims, whether in contract or tort, which the *Client* has or hereafter may have against the *Architect* in any way arising out of or related to the *Architect's* duties and responsibilities pursuant to this contract, shall be limited to coverage and amount of professional liability insurance carried and available to the *Architect* for the payment of such claims at the time the claim is made. Prior to the date of execution of this contract, if the *Client* wishes to increase the amount of the coverage of such policy or to obtain other special insurance coverage, then the *Architect* shall cooperate with the *Client* to obtain such increased or special insurance at the *Client's* expense.

The last part of this clause provides for increased insurance if the *Client* desires.

- 8.3 The *Architect* shall be entitled to rely upon software and product information published by manufacturers and shall not be held liable for relying on information or representation which it reasonably believes to be accurate.
- 8.4 The *Architect* shall not:
- .1 be required to make exhaustive or continuous on-site reviews;
 - .2 be responsible for acts or omissions of the contractor, subcontractors, suppliers or any other persons performing any of the *Work*, or for failure of any of them to carry out the *Work* in accordance with the construction contract documents;
 - .3 have control, charge, or supervision, or responsibility for construction means, methods, techniques, schedules, sequences or procedures, or, for safety precautions and programs required in connection with the *Work*,
 - .4 be responsible for any and all matters arising from *Toxic or Hazardous Substances or Materials*, and
 - .5 be liable for the result of any interpretation or finding rendered in good faith in accordance with the construction contract documents.
- 8.5 The *Client* acknowledges that either the *Architect* or the *Client* may engage *Consultants* on behalf of and for the benefit and convenience of the *Client*; and agrees that the *Architect* shall not be liable to the *Client*, in contract or in tort, for the acts, omissions or errors of *Consultants* engaged by the *Client* identified in Article A10.2 or the *Consultants* described in GC4.3 engaged on behalf of the *Client*. Nothing in this clause shall derogate from the *Architect's* duty of *Consultant Coordination*.
- 8.6 The *Client* shall not commence any claim or proceeding in contract, tort, breach of statutory duty or otherwise against any current or former employee, officer or director of the *Architect* arising out of negligent, wrongful or intentional acts, omissions or errors of such person pursuant to this contract.
- 8.7 The *Client* agrees that the *Architect* shall not be responsible in contract or in tort for any changes made by others to the *Architect's* design or the *Construction Documents*.

GC9 SUSPENSION OF SERVICES

- 9.1 If the *Client* lacks the financial ability or authority to proceed, the *Client* may give seven days (7) written notice to the *Architect* that the *Client* elects to suspend the *Architect's* services.

Contractors have become more diligent in requiring clients to demonstrate financial capability for funding the project. This is reflected in the CCDC documents as a contractual provision. Prudent architects similarly exercise good practice and satisfy themselves that their clients will meet the financial commitments to the project and the architect. This GC pertains to an event occurring after this due diligence has been performed, causing a change in the client's ability to meet its obligations.

- 9.2 If any invoice submitted by the *Architect* remains unpaid by the *Client* for forty-five (45) days or more from the date the invoice was submitted, then the *Architect* may give seven (7) days written notice to the *Client* that the *Architect* will suspend services.

- 9.3 The *Architect* may suspend services on the *Project*:

- .1 if within seven (7) days of delivery of the notice in GC9.2, the *Client* has not paid the *Architect's* invoice, or the *Architect* and the *Client* have not agreed in writing on terms for payment of the invoice, or

Clients have to understand that architects are in business and have obligations to meet business expenses as well as expenses directly attributable to the client's project. Architects are not in the business of funding or financing client's projects.

- .2 if construction of the *Work* proceeds in the absence of a building permit and without the chief building official dispatching building officials to the site or, if the *Architect* becomes aware of an action taken by the *Client* which violates applicable building codes or regulations.

Refer to the OAA Regulatory Notice R.9 related to this situation.

- 9.4 In either of the events of GC9.3 the *Client* shall not have any claim whatsoever against the *Architect* for any loss, cost, damage, or expense incurred or anticipated to be incurred by the *Client* as a result of the suspended services.

- 9.5 The rights of the *Architect* given by GC9.3 are in addition to and not in substitution for any other rights the *Architect* may have under this contract or otherwise for non-payment of the *Architect's* invoices by the *Client*.

- 9.6 In the event of a suspension of services, the *Architect* shall not be liable for delay or damage as a result of the suspension of services. Upon suspension, the *Architect* shall submit an invoice for all services performed to the effective suspension date, together with reimbursable expenses and applicable taxes then due. Before resuming services, the *Architect* shall be entitled to payment, within thirty (30) days of the date that the invoice for suspension of services is submitted, for all suspension expenses as defined in GC9.7 and for all expenses for recommencement of services. The *Architect's* fees for the remaining services and time schedules shall be adjusted accordingly.

- 9.7 Suspension expenses include expenses directly attributable to suspension of the *Project* for which the *Architect* is not otherwise compensated, including costs attributed to suspending the *Architect's* contractual and employee commitments.

The suspension and resumption of services have costs attached in time and money related to the disassembling and reassembling of the *Architect's* and *Consultant's* project team members and possibly their premises.

GC10 TERMINATION OF SERVICES

- 10.1 This contract is terminated on the earliest of:

- .1 completion of the services
.2 termination in accordance with GC10.
.3 one year from the date of certification of *Substantial Performance of the Work*; or
.4 one year from the date of completion of the *Work*.

- 10.2 This contract may be terminated by either party upon not less than seven (7) days written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.
- 10.3 This contract may be terminated by the *Client* upon at least seven (7) days written notice to the *Architect* in the event that the *Project* is abandoned.
- 10.4 If the *Project* is suspended or abandoned in whole or in part for more than a total of sixty (60) days, it shall be deemed to be abandoned and treated in accordance with Article GC10.2.
- 10.5 In the event of termination, the *Architect* shall be paid, within thirty (30) days of the date that an invoice is submitted, for all services performed to the effective termination date, together with reimbursable expenses and applicable taxes then due, and for all termination expenses as defined in GC10.6.
- 10.6 Termination expenses are in addition to compensation for the *Architect's* services and include expenses directly attributable to termination for which the *Architect* is not otherwise compensated, plus an amount for the *Architect's* anticipated profit calculated as 10% of the value of the services remaining to be performed by the *Architect* or such other amount as may be mutually agreed.

The multiple percentage formula for termination expenses found in previous versions of the OAA 600 has been simplified to a single value.

GC11 PAYMENTS TO THE ARCHITECT

- 11.1 An invoice submitted by the *Architect* under this contract is due and payable when submitted to the *Client*. Payments for the *Architect's* services shall be made on account for invoices as described in Article A11 of this contract and, where applicable, shall be in proportion to services performed within each phase of the service.
- 11.2 The *Client* shall pay the *Architect* for all reimbursable expenses plus an administrative charge as identified in Article A13 of this contract.
- 11.3 Reimbursable expenses include the following actual expenditures, supported by receipts or invoices, incurred by the *Architect*, and the *Architect's Consultants* in the interest of the *Project*:
- .1 transportation in connection with the *Project* for authorized travel, e.g. for transportation, lodging and meals;
 - .2 communication and shipping, e.g. for long distance telephone calls and facsimile messages, courier service, postage and electronic conveyances;
 - .3 reproduction of *Instruments of Service*, photographs, and other documents;
 - .4 web-based project management services, specifically requested by the *Client*;
 - .5 fees, levies, duties or taxes for permits, licences or approvals from authorities having jurisdiction;
 - .6 premiums for additional insurance coverage or limits, including that of professional liability insurance, requested by the *Client* in excess of that normally carried by the *Architect* and the *Architect's Consultants*; and
 - .7 other *Project* related expenses approved by the *Client* prior to expenditure.
- 11.4 No deductions shall be made by the *Client* from amounts payable to the *Architect* on account of penalty, liquidated damages, or other sums withheld from payments to contractors, or on account of the cost of changes in the *Work* other than those for which the *Architect* is proven to be legally responsible or has agreed to pay.
- 11.5 Variance from the *Client's* budget for the *Construction Cost* established under this contract shall not constitute grounds for the *Client* to withhold fees due to the *Architect*.
- 11.6 When a percentage-based fee is used as the method for determining the *Architect's* fee, the basis for calculating the applicable portion of the fee for each phase of the *Architect's* services shall be based on Article A12 of this contract.
- 11.7 When a percentage-based fee is used and any parts of the *Project* are deleted or otherwise not constructed the *Construction Cost* shall be the *Estimate of Construction Cost* as determined by the *Architect*, or as agreed by the *Architect* if a cost *Consultant* is engaged, at market rates at the anticipated time of construction.

- 11.8 If and to the extent that the contract time initially established in the construction contract is exceeded or extended through no fault of the *Architect*, fees for services required for such extended period of the construction contract administration shall be adjusted and computed as set forth in Article A11 of this contract or as otherwise mutually agreed with the *Client*.
- 11.9 The *Client* shall pay to the *Architect*, together with, and in addition to, any fees and reimbursable expenses, value added taxes that are, or become, payable as required by legislation.
- 11.10 If this contract requires the *Architect* to provide services both before and after the commencement of the *Work* and the *Client* is retaining holdback pursuant to the *Construction Lien Act* (Ontario) from payments to the *Architect*, then, for purposes of the *Construction Lien Act* (Ontario), this contract shall be deemed to be divided into two (2) contracts, with the terms and conditions of this contract applying with necessary modifications to both deemed contracts as follows, with:
- .1 a contract for the provision of the *Architect's* services up to and including the commencement of the *Work*; and
 - .2 a contract for the provision of the *Architect's* services after the commencement of the *Work*.

The *Construction Act* provides for the release of the statutory holdback on architect's fees at the end of a designated design phase for contracts where the procurement process commenced on or after July 1, 2018. Refer to Appendix A. While this is of great benefit on projects of a long duration, architects must take care to exercise their lien rights in a timely fashion where necessary. The period of lien rights for the initial contract (11.11.1) will expire and not extend into the subsequent contract(s).

It should be noted that there is a judicial ruling on record that defines the "commencement of the *Work*" for the release to occur as the date the contract between the client and the contractor for the construction of the project is signed.

Be aware that there is no provision in the CLA for the architect to be substantially performed as there is for contractors (only total completion). Given 11.11.2 above, care should be taken to establish the end date when the remaining holdback can be applied for. There have been interpretations which stand up legally that architect's services are not complete until total completion of the work or 12 months after the contractor's substantial performance date whichever is the later. For this reason, it may be in the architect's best interest to add an 11.11.3 for the 12-month warranty period of the contractor and add an interim milestone contemporaneous with the date of the contractor's date of substantial performance to allow for application and release of holdback on the fees for services to that date.

In the event that some or all of the engineering consultants are engaged directly by the client and the architect has little or no control of the completion of services by those consultants, a provision is recommended to be added to GC13 Other Terms of Contract, to the effect that the definition of construction documents is revised to exclude those documents prepared by consultants engaged directly by the client.

A further complication occurs to the above protocols if sequential bidding through a construction management contract between owner and contractor/manager or a 'fast track' schedule under a stipulated sum contract exists. The complication is the judicial ruling would not apply as the contract between owner and contractor/manager would have been signed much earlier. A suggestion would be to establish an agreed upon date when the final construction documents are complete and use that date as the commencement of the lien period for the services up to that date.

GC12 MISCELLANEOUS CONDITIONS

- 12.1 The addresses for official notice shall be as stated in Article A2 and A3. Notices in writing between the parties shall be considered to have been received by the addressee on the date of delivery if delivered to the individual, or to a member of the firm, or to an officer of the corporation for whom they are intended, by hand or by registered post; or if sent by regular post, to have been delivered five (5) working days from the date of mailing; or if sent by electronic conveyance during the transmission of which no indication of failure of receipt is communicated to the sender, deemed to have been received on the date of its transmission provided that if such day is not a working day or if it is received after the end of normal business hours on the date of its transmission at the place of receipt, then it shall be deemed to have been received at the opening of business at the place of receipt on the first working day next following the transmission thereof.
- 12.2 The *Architect* shall be entitled to sign the building by inscription, or otherwise, on a permanent, suitable and reasonably visible part of the building.
- 12.3 The *Architect* shall be entitled to include as part of the construction contract documents a provision to erect a sign identifying the *Architect* and the *Architect's Consultants* at the *Place of the Work*. In some instances the *Client* may also be represented on the sign. Graphics on the sign may also include a reproduction of a rendering of the *Project*.
- 12.4 If any provision of this contract is declared by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such provision shall be severed from this contract and the other provisions shall remain in full force and effect.
- 12.5 This contract shall be governed by the law of the Province of Ontario.
- 12.6 The *Client* and the *Architect* respectively bind themselves, their partners, successors, assigns and legal representatives to the other party to this contract and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this contract. Except as otherwise provided herein, neither the *Client* nor the *Architect* shall assign, sublet, or transfer an interest in this contract without the written consent of the other. Consent to such assignment or transference shall not be unreasonably withheld.
- 12.7 This contract represents the entire and integrated contract between the *Client* and the *Architect* and supersedes all prior negotiations, representations, or contracts, either written or oral. This contract may be amended only in writing signed by both the *Client* and the *Architect*.

GC13 OTHER TERMS OF CONTRACT:

The *Client* and the *Architect* agree as set forth in the following other terms:



The above box is where any relevant information and/or any modifications or additions to the Articles or General Conditions should be located. As well, any attached documents should be referenced here - e.g. "Appendix ____, dated _____, __ pages are attached to and form part of this contract."

This contract is entered into as of the day and year first written above.

Date "first written above" refers to Article A1.

.....
CLIENT (*Signature*)

.....
ARCHITECT (*Signature*)

.....
(*Printed name and title*)

.....
(*Printed name and title*)



Standard Form of Contract for Architect's Services

OAA 600-2013 with July 1, 2018 Amendments

FOR

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Note: Appendix A only includes excerpts from those pages of OAA 600-2013 with July 1, 2018 Amendments (highlighted in red) that have been revised. These Instructions & Commentary are supplementary to those for OAA 600-2013 without the 2018 amendments.

OAA 600-2013 with July 1, 2018 Amendments

Note: The July 1, 2018 Amendments take into account the changes made by the Construction Act, R.S.O. 1990, C.30 and are identified in this contract by a vertical line alongside the applicable clause.

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* List any documents attached to and forming part of this contract in GC13 Other Terms of Contract.

- A12 Where fees are based on a lump sum or percentage of the *Construction Cost* the compensation and invoicing for each phase of services shall be based on the following apportionment of the total fees:

Schematic design phase	(_____ %)
Design development phase	(_____ %)
Construction documents phase	(_____ %)
Bidding or negotiating phase	(_____ %)
Construction phase	(_____ %)
Total	(_____ %)

- A13 An administrative charge of _____ % shall be added to the reimbursable expenses as noted in GC11.2.

- A14 The rate for calculating automobile travel costs shall be \$_____ per kilometre.

- A15 The *Client* shall pay to the *Architect*, upon execution of this contract, a retaining fee in the amount of \$_____. This retaining fee shall be credited against the *Architect's* last invoice and is the minimum payment that the *Client* must pay the *Architect* under this contract.

- A16 The *Client* shall pay the *Architect* upon receipt of invoices, **or the portion thereof** on account of the *Architect's* fee and reimbursable expenses plus applicable taxes. Invoices shall be issued and submitted monthly unless otherwise agreed.

- A17 An unpaid invoice **or the unpaid balance thereof** shall bear interest, calculated monthly at the rate of _____ % per annum, commencing **twenty-eight (28) days** after the date that the *Architect's* **invoice is received, or such other rate as is specified in the *Construction Act* (Ontario).**

Articles A16 & A17 have been amended for coordination with the provisions of the *Construction Act*.

- A18 For the purposes of the *Construction Act* (Ontario), this contract provides for payment of accrued holdback on a phased basis with respect to the specified completed design phase as follows:

1.

Article A18 has been added because the *Construction Act* now permits the release of accrued holdback monies on a phased basis, upon completion of a design phase. Design phase refers to each of the phases of services described as the *Architect's* scope of service under GC2.1, 3.1, and 3.2 (as may be amended under GC13) that occur prior to the construction phase. To be effective, the contract must specify the design phase or phases for which holdback will be released.

By specifying the applicable design phases or phases in the box provided, the *Architect* may choose to provide for the release of holdback to occur following the completion of all design phases, or upon completion of one or more specific design phases. The choice will depend on the size and complexity of the project. Examples are shown below:

or

1. Construction Document Phase

1. Site Plan Approval

2. Construction Document Phase

DEFINITIONS

The following Definitions apply to this contract. References to the singular shall be considered to include the plural as the context requires.

Architect is the entity identified in Article A3 which is the holder of a Certificate of Practice issued by the OAA.

Client is the person or entity identified in Article A2.

Construction Cost is the total cost of the *Work* to the *Client* to construct all elements of the *Project* designed or specified by, or on behalf of, or as a result of, the coordination by the *Architect*, including construction contract price(s), cash allowances included in the construction contracts, building permit fees, changes during construction, contractors general conditions costs, overhead and profit, construction management fees or other fees for the coordination and procurement of construction services, and all applicable taxes, including the full amount of value-added taxes, whether recoverable or not. The *Construction Cost* does not include the compensation of the *Architect* and the *Consultants*, land cost, land development charges or other professional fees, which are the responsibility of the *Client*.

Construction Documents consist of drawings, specifications and other documents appropriate to the size and complexity of the *Project*, to describe the size and character of the *Project* including architectural and where applicable structural, mechanical, and electrical systems, materials and such other elements setting forth in detail the requirements for the construction, enlargement or alteration of the building or buildings and any related components comprising the *Project*.

Consultant is a person or an entity engaged by the *Client* or the *Architect* to provide services supplementary to those provided by the *Architect*.

Consultant Coordination consists of:

- managing the communications between *Consultants* and with the *Client*, and
- providing direction as necessary to give effect to any design decisions taken, and
- reviewing the product of the *Work* to assist in identifying conflicts and to monitor compliance with directions.

Contingency means an amount calculated as a percentage of the *Construction Cost* to cover unknowns or changing factors of cost and include: (1) escalation *Contingency* to cover price escalation from the time of an estimate to the time of bidding, (2) design *Contingency* for design development factors prior to construction and (3) construction *Contingency* to cover unforeseen changes during construction.

Electronic Documents are one of the formats in which *Instruments of Service* may be provided by the *Architect*. *Electronic Documents* refer to portable document files (PDF - non-editable) but do not include computer-aided design documents (e.g. CAD or BIM – editable files) unless otherwise agreed in writing.

Estimate of Construction Cost is a statement of the approximate total *Construction Cost* as defined, based on current area, volume or similar conceptual techniques and includes *Contingencies* as defined.

General Review means review during visits to the *Place of the Work* (and where applicable, at locations where building components are fabricated for use at the *Project* site) at intervals appropriate to the stage of the construction that the *Architect* in its professional discretion, considers necessary to become familiar with the progress and quality of the *Work* and to determine that the *Work* is in general conformity with the construction contract documents, and to report, in writing, to the *Client*, contractor and chief building official.

Instruments of Service are the paper or non-editable *Electronic Documents* which comprise the design, drawings, specifications and reports prepared by or on behalf of the *Architect* or *Consultant*, including but not limited to plans, sketches, drawings, graphic representations and specifications and materials which are prepared for the approval of the *Client* and the authorities having jurisdiction and for construction, but do not include software systems, databases, computer programs, or computer-aided design documents (e.g. CAD or BIM – editable files) unless otherwise agreed in writing.

Place of the Work is the designated site or location of the *Work* identified in the construction contract documents.

Project as described in this contract means the total enterprise or endeavour contemplated of which the *Work* may be the whole or a part.

Substantial Performance of the Work means substantial performance of the contract as defined under the *Construction Act (Ontario)*. Where the *Place of the Work* is located outside of Ontario, *Substantial Performance of the Work* shall be as defined in the lien legislation applicable to the *Place of the Work*, or in the absence of such legislation it shall mean the date the *Work* is ready for the purpose intended.

Definition of *Substantial Performance of the Work* was amended for coordination with the provisions of the *Construction Act*.

Toxic or Hazardous Substances or Materials means any solid, liquid, gaseous, thermal or electromagnetic irritant or contaminant, and includes, without limitation, pollutants, moulds, asbestos, bio-contaminants, biohazards and nuclear, and hazardous and special wastes whether or not defined in any federal, provincial, territorial or municipal laws, statutes or regulations.

Work means the total construction and related services required by the construction contract documents.

GC2 ARCHITECT'S SCOPE OF BASIC SERVICES

- 2.1 The *Architect's* basic services consist of those services performed by the *Architect*, the *Architect's* employees, and the *Architect's Consultants* set forth herein or otherwise mutually agreed in writing. They include the provision of basic structural, mechanical and electrical engineering services by professional engineers when these *Consultants* are engaged by the *Architect*.

(Indicate in the table below each basic service to be provided by the *Architect* and the manner of compensation as indicated in Fee Reference for each as identified in Article A11.

2.1	ITEM	Service Provided:	Fee Reference:	Comments
	CONSTRUCTION PHASE			
.30	Proposed Change Notices/Change Orders and Change Directives - Prepare proposed change notices, drawings, specifications and supporting data, evaluate contractor's proposals, prepare change orders and change directives for the <i>Client's</i> approval and signature in accordance with the construction contract documents.			
.31	Inspection & Testing Services - Provide assistance in having inspection and testing companies perform services as required by the construction contract documents, receive and review their reports and report to <i>Client</i> .			
.32	Substantial Performance - As payment certifier prepare and issue at the appropriate time, a certificate of <i>Substantial Performance of the Work</i> in accordance with the provisions of the <i>Construction Act (Ontario)</i> .			
.32a	Deemed Completion – As payment certifier, prepare and issue at the appropriate time, a statement of construction contract deemed completion in accordance with the provisions of the <i>Construction Act (Ontario)</i> .			
	GC2.1.32 & 2.1.32a have been divided into separate tasks as not all projects have both substantial performance and deemed completion			
.33	Contractor's Documentation at Completion - Receive from the contractor and forward to the <i>Client</i> for the <i>Client's</i> acceptance the written warranties and related documents as required under the construction contract.			
.34	Takeover Procedure - Arrange for takeover of the <i>Project</i> by the <i>Client</i> , including demonstration of operating equipment, handover of operating and maintenance manuals and replacement parts as specified. The OAA recommends the use of the appropriate version of OAA/OGCA Take-over Procedures Document 100 which can be specified as requirements in Division 01 of the Project Manual specifications and the OAA/OGCA Guide to Close Out Procedures.			
.35	Twelve Month Warranty Review - Prior to the end of the period of one year following the date of <i>Substantial Performance of the Work</i> , review any defects or deficiencies which have been reported or observed during that period, and notify the contractor in writing of those items requiring attention by the contractor to complete the <i>Work</i> in accordance with the construction contract between the owner and contractor.			

GC3 PROVISION OF ADDITIONAL SERVICES

- 3.2 Upon recognizing the need to perform the following unforeseen Additional Services the *Architect* shall notify the *Client* with reasonable promptness explaining the facts and circumstances. The *Architect* shall not proceed to provide the following services until the *Architect* receives the *Client's* written authorization. Compensation shall be at hourly rates identified in Article A11 unless mutually agreed otherwise. This shall include providing services, reviewing, evaluating, revising or providing additional drawings or specifications including proposed change notices, change orders, change directives or other documents which are:
- .1 caused by instructions that are inconsistent with instructions or written approvals previously given by the *Client*, including revisions made necessary by adjustments in the *Client's* Program of Requirements or budget for *Construction Cost*;
 - .2 required because of significant changes to the *Project*, including size, quality, complexity, the *Client's* schedule, or the method of bidding or negotiating and contracting for construction;
 - .3 caused by the enactment or revisions of statutes, regulations, codes or by-laws, subsequent to the preparation of such documents;
 - .4 caused by an interpretation by the authorities having jurisdiction which differs from the *Architect's* interpretation of statutes, regulations, codes and by-laws, which difference the *Architect* could not have reasonably anticipated;
 - .5 due to changes required as a result of the *Client's* failure to render decisions in a timely manner;
 - .6 in connection with evaluating substitutions proposed by the contractor and making subsequent revisions to the drawings, specifications and other documentation resulting from them;
 - .7 required to evaluate an extensive or unreasonable number or size of claims or requests for information (RFI's) submitted by the contractor or others in connection with the *Work*;
 - .8 due to replacement of any of the *Work* damaged by fire or other cause during construction and furnishing services as may be required in connection with the replacement of such work;
 - .9 made necessary by the default of the contractor, by major defects or deficiencies in the *Work* of the contractor, by failure of performance by either the *Client* or the contractor under the construction contract;
 - .10 requested by the *Client* in connection with any **adjudication**, mediation, arbitration proceeding, or legal proceeding **which is not substantially caused by the Architect's error or omission**, or;
 - .11 made necessary by the extension of the anticipated dates for construction described in Article A7.
 - .12 **in connection with the preparation and issuance of a certificate for payment for release of holdback on an annual basis, phased basis, or upon completion of a subcontract, as agreed to in the construction contract.**

GC3.2.10 & 3.2.11 have been amended for coordination with the provisions of the *Construction Act*.

GC4 CLIENT'S RESPONSIBILITIES

- 4.3 The *Client* shall provide information, surveys, reports and services as set out below, the accuracy and completeness of which the *Architect* shall be entitled to rely upon and such contracts for the provision of information, surveys, reports and services, whether arranged by the *Client* or the *Architect*, shall be considered direct contracts with *Client* unless explicitly provided otherwise:
- .1 surveys describing physical characteristics, legal limitations and utility locations for the *Project* site, and a written legal description of the site and adjoining properties as necessary showing the following survey and legal information, as applicable: grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights of way; restrictions; easements; encroachments; zoning; deed restrictions; boundaries and contours of the site; locations, dimensions and data pertaining to existing buildings, other improvements, and trees; and information concerning utility services, both public and private, above and below grade, including inverts and depths;

- .2 subsurface investigation and reports which include but are not limited to test borings, test pits, determination of soil bearing values, percolation tests, a list of and evaluations of *Toxic or Hazardous Substances or Materials* present at the *Place of the Work*, ground corrosion and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate professional recommendations; and
- .3 air and water pollution tests, tests for *Toxic or Hazardous Substances or Materials*, structural, mechanical, chemical, and other laboratory and environmental tests, inspections, laboratory and field tests and reports as required by the *Architect*, the *Architect's Consultants*, the authorities having jurisdiction or the construction contract documents.

It is the client's responsibility to provide the architect with the relevant information about the existing condition of the property. Further, the architect and the architect's consultants involved in the design services must have the right to rely upon the accuracy of the information provided.

It is possible for the architect and its consultants to assist in defining the scope of the information required for their purposes at the outset of the project and/or as it evolves. This assistance should not be construed as changing the underlying principle that the client is responsible for all information about the existing condition of the property; the architect is responsible for the changes it designs to the client's property.

In regard to items .GC4.3.1, .2 & .3 above *Architects* should acquaint themselves and the *Client* with OAA Practice Tip 30 "*Retention of Specialist Consultants*" and with Pro-Demnity Bulletin dated April 2008 titled "*Retention of Specialists to meet Owner's Obligations*"

GC6 CONSTRUCTION PHASE SERVICES

- 6.3 When engaged to provide payment certification, the issuance of a certificate for payment shall constitute a representation by the *Architect* to the *Client*, based on the *Architect's General Review* and on review of the contractor's schedule of values and application for payment, that the *Work* has progressed to the value indicated; that to the best of the *Architect's* knowledge, information and belief, the *Work* observed during the course of *General Review* is in general conformity with the construction contract documents and that the contractor is entitled to payment in the amount certified. Such certification is subject to:
 - .1 review and evaluation of the *Work* as it progresses for general conformity as provided in the services described in this contract;
 - .2 the results of any subsequent tests required by or performed under the construction contract documents;
 - .3 minor deviations from the construction contract documents being corrected prior to completion; and
 - .4 any specific qualifications stated in the certificate for payment.

The architect's role in the certification for payment process is to ascertain the extent of the construction that has been completed in accordance with the construction contract documents in conjunction with consultants where applicable.

At the beginning of the work, the architect and the client review the schedule of values prepared and submitted by the contractor. The schedule of values is intended to be an accurate and fair representation of the proportion that each component is of the total construction cost.

The monthly payment certification process entails a review on site of the application for payment submitted by the contractor. An application for payment is divided into multiple components, each describing the percentage completion of the general contractor's General Conditions and trade contractor's work and presented in a similar format as the schedule of values.

Refer to OAA documents for additional information and standard forms.

GC9 SUSPENSION OF SERVICES

- 9.4 In either of the events of GC9.3 the *Client* shall not have any claim whatsoever against the *Architect* for any loss, cost, damage, or expense incurred or anticipated to be incurred by the *Client* as a result of the suspended services.
- 9.5 The rights of the *Architect* given by GC9.3 are in addition to and not in substitution for any other rights the *Architect* may have under this contract or otherwise for non-payment of the *Architect's* invoices by the *Client*.
- 9.6 In the event of a suspension of services, the *Architect* shall not be liable for delay or damage as a result of the suspension of services. Upon suspension, the *Architect* shall submit an invoice for all services performed to the effective suspension date, together with reimbursable expenses and applicable taxes then due. Before resuming services, the *Architect* shall be entitled to payment, within **twenty-eight (28)** days of the date that the invoice for suspension of services is **received by the Client**, for all suspension expenses as defined in GC9.7 and for all expenses for recommencement of services. The *Architect's* fees for the remaining services and time schedules shall be adjusted accordingly.

GC9.6 has been amended for coordination with the provisions of the Construction Act

- 9.7 Suspension expenses include expenses directly attributable to suspension of the *Project* for which the *Architect* is not otherwise compensated, including costs attributed to suspending the *Architect's* contractual and employee commitments.

GC10 TERMINATION OF SERVICES

- 10.1 This contract is terminated on the earliest of:
- .1 completion of the services
 - .2 termination in accordance with **GC10.2, 10.3 or 10.4**
 - .3 one year from the date of certification of *Substantial Performance of the Work*; or
 - .4 one year from the date of completion of the *Work*.

GC10.1 has been revised for clarity.

- 10.2 This contract may be terminated by either party upon not less than seven (7) days written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.
- 10.3 This contract may be terminated by the *Client* upon at least seven (7) days written notice to the *Architect* in the event that the *Project* is abandoned.
- 10.4 If the *Project* is suspended or abandoned in whole or in part for more than a total of sixty (60) days, it shall be deemed to be abandoned and treated in accordance with Article GC10.2.
- 10.5 In the event of termination, the *Architect* shall be paid, within thirty (30) days of the date that an invoice is submitted, for all services performed to the effective termination date, together with reimbursable expenses and applicable taxes then due, and for all termination expenses as defined in GC10.6.
- 10.6 Termination expenses are in addition to compensation for the *Architect's* services and include expenses directly attributable to termination for which the *Architect* is not otherwise compensated, plus an amount for the *Architect's* anticipated profit calculated as 10% of the value of the services remaining to be performed by the *Architect* or such other amount as may be mutually agreed.

GC11 PAYMENTS TO THE ARCHITECT

- 11.9 The *Client* shall pay to the *Architect*, together with, and in addition to, any fees and reimbursable expenses, value added taxes that are, or become, payable as required by legislation.

11.10 Deleted.

GC11.10 has been amended for coordination with the provisions of the Construction Act. The previous wording of 11.10 which deemed the contract divided into two separate contracts to allow for release of holdback at the end of design is no longer required as phased release is permitted under the Construction Act as noted in Article A18



Standard Form of Contract for Architect's Services

OAA 600-2013 with **Amendments to October 1, 2019**

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A large, empty rectangular box with a thin black border, intended for a signature or stamp.

Note: Appendix B only includes excerpts from those pages of OAA 600-2013 with July 1, 2018 and October 1, 2019 Amendments (highlighted in red), which have been revised. In order to differentiate between the July 1, 2018 and the October 1, 2019 amendments in this appendix, the October 1, 2019 revisions are identified by a vertical red bar in the right margin for both the contract and the commentary (in blue). The July 1, 2018 changes are still identified in red, but do not have a vertical line at the right margin.

These Instructions and Commentary are supplementary to those for OAA 600-2013 without the 2018 and 2019 amendments.

OAA 600-2013 with Amendments to October 1, 2019

Note: The October 1, 2019 Amendments take into account the changes made by the *Construction Act*, R.S.O. 1990, C.30 effective October 1, 2019. This version also includes those amendments previously incorporated in response to the changes made by the *Construction Act*, R.S.O. 1990, C.30 effective July 1, 2018. **The October 1, 2019 amendments are identified in this contract by a vertical line alongside the applicable clause.**

Clauses may have been renumbered due to insertions or deletions as a result of the changes made.

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* List any documents attached to and forming part of this contract in GC13 Other Terms of Contract.

AGREEMENT

A1 This contract made as of the _____ day of the month of _____ in the year _____.

Enter the effective date of the contract which could be:

- the date an oral agreement was reached;
- the date an interim or letter agreement was executed;
- the date the contract was submitted to the client for signature;
- the date the client first authorized action; or
- the date of execution of the contract.

The effective date of the Agreement is important due to the various amendments to the *Construction Act*. The provisions of the *Construction Act* cannot be contracted in to or out of. Determining proper application of the transition rules referred to in Appendix A and B of this commentary is critical and can be complicated. It is recommended that architects obtain legal advice as to which provisions apply to any given contract.

A2 between the *Client*:

A12 Where fees are based on a lump sum or percentage of the *Construction Cost* the compensation and invoicing for each phase of services shall be based on the following apportionment of the total fees:

Schematic design phase	(_____ %)
Design development phase	(_____ %)
Construction documents phase	(_____ %)
Bidding or negotiating phase	(_____ %)
Construction phase	(_____ %)
Total	(_____ %)

A13 An administrative charge of _____ % shall be added to the reimbursable expenses as noted in GC11.2.

A14 The rate for calculating automobile travel costs shall be \$_____ per kilometre.

A15 The *Client* shall pay to the *Architect*, upon execution of this contract, a retaining fee in the amount of \$_____. This retaining fee shall be credited against the *Architect's* last invoice and is the minimum payment that the *Client* must pay the *Architect* under this contract.

A16 The *Client* shall pay the *Architect* **within twenty-eight (28) days of** receipt of *Proper Invoices*, the invoiced amount or the undisputed portion thereof on account of the *Architect's* fee and agreed upon reimbursable expenses plus applicable taxes. *Proper Invoices* shall be issued and submitted monthly unless otherwise agreed.

A17 An unpaid *Proper Invoice* or the unpaid balance thereof shall bear interest, calculated and compounded monthly at the rate of _____ % per annum or such other rate as is specified in the *Construction Act* (Ontario), **whichever is higher**, commencing **the twenty-ninth (29th)** day after the date that the *Architect's Proper Invoice* is received, or such other rate as is determined as a result of a dispute resolution process.

Articles A16 & A17 have been amended for coordination with the provisions for prompt payment in the *Construction Act*.

A18 For the purposes of the *Construction Act* (Ontario), this contract provides for payment of accrued holdback on a phased basis with respect to the specified completed design phase as follows:

1. _____
2. _____

Article A18 has been added because the *Construction Act* now permits the release of accrued holdback monies on a phased basis, upon completion of a design phase. Design phase refers to each of the phases of services described as the *Architect's* scope of service under GC2.1, 3.1, and 3.2 (as may be amended under GC13) that occur prior to the construction phase. To be effective, the contract must specify the design phase or phases for which holdback will be released.

By specifying the applicable design phases or phases in the box provided, the *Architect* may choose to provide for the release of holdback to occur following the completion of all design phases, or upon completion of one or more specific design phases. The choice will depend on the size and complexity of the project. Several examples are shown below:

or

1. Construction Document Phase

1. Site Plan Approval
2. Construction Document Phase

DEFINITIONS

The following Definitions apply to this contract. References to the singular shall be considered to include the plural as the context requires.

Adjudication means construction dispute interim adjudication as specified under the *Construction Act* (Ontario).

Definition of *Adjudication* was added for coordination with the provisions for adjudication in the *Construction Act*.

Architect is the entity identified in Article A3 which is the holder of a Certificate of Practice issued by the OAA.

Client is the person or entity identified in Article A2.

Construction Cost is the total cost of the *Work* to the *Client* to construct all elements of the *Project* designed or specified by, or on behalf of, or as a result of, the coordination by the *Architect*, including construction contract price(s), cash allowances included in the construction contracts, building permit fees, changes during construction, contractors general conditions costs, overhead and profit, construction management fees or other fees for the coordination and procurement of construction services, and all applicable taxes, including the full amount of value-added taxes, whether recoverable or not. The *Construction Cost* does not include the compensation of the *Architect* and the *Consultants*, land cost, land development charges or other professional fees, which are the responsibility of the *Client*.

Construction Documents consist of drawings, specifications and other documents appropriate to the size and complexity of the *Project*, to describe the size and character of the *Project* including architectural and where applicable structural, mechanical, and electrical systems, materials and such other elements setting forth in detail the requirements for the construction, enlargement or alteration of the building or buildings and any related components comprising the *Project*.

Consultant is a person or an entity engaged by the *Client* or the *Architect* to provide services supplementary to those provided by the *Architect*.

Consultant Coordination consists of:

- managing the communications between *Consultants* and with the *Client*, and
- providing direction as necessary to give effect to any design decisions taken, and
- reviewing the product of the *Work* to assist in identifying conflicts and to monitor compliance with directions.

Contingency means an amount calculated as a percentage of the *Construction Cost* to cover unknowns or changing factors of cost and include: (1) escalation *Contingency* to cover price escalation from the time of an estimate to the time of bidding, (2) design *Contingency* for design development factors prior to construction and (3) construction *Contingency* to cover unforeseen changes during construction.

Electronic Documents are one of the formats in which *Instruments of Service* may be provided by the *Architect*. *Electronic Documents* refer to portable document files (PDF - non-editable) but do not include computer-aided design documents (e.g. CAD or BIM – editable files) unless otherwise agreed in writing.

Estimate of Construction Cost is a statement of the approximate total *Construction Cost* as defined, based on current area, volume or similar conceptual techniques and includes *Contingencies* as defined.

General Review means review during visits to the *Place of the Work* (and where applicable, at locations where building components are fabricated for use at the *Project* site) at intervals appropriate to the stage of the construction that the *Architect* in its professional discretion, considers necessary to become familiar with the progress and quality of the *Work* and to determine that the *Work* is in general conformity with the construction contract documents, and to report, in writing, to the *Client*, contractor and chief building official.

Instruments of Service are the paper or non-editable *Electronic Documents* which comprise the design, drawings, specifications and reports prepared by or on behalf of the *Architect* or *Consultant*, including but not limited to plans, sketches, drawings, graphic representations and specifications and materials which are prepared for the approval of the *Client* and the authorities having jurisdiction and for construction, but do not include software systems, databases, computer programs, or computer-aided design documents (e.g. CAD or BIM – editable files) unless otherwise agreed in writing.

Place of the Work is the designated site or location of the *Work* identified in the construction contract documents.

Project as described in this contract means the total enterprise or endeavour contemplated of which the *Work* may be the whole or a part.

Proper Invoice means a written request for payment for services, materials, agreed reimbursables or related documentation containing at a minimum the following information:

- *Architect's* name and address.
- Date of the *Proper Invoice* and the period during which the services, materials or related documentation were supplied.
- Information identifying the authority under which the services, materials or related documentation were supplied.
- Description, including quantity where appropriate, of the services, materials or related documentation that were supplied.
- Amount payable for the services, material or related documentation that were supplied, and the payment terms.
- Name, title, telephone number and mailing address of the *Architect* to whom payment is to be sent.
- Any additional information specified in GC12.1.

Definition of *Proper Invoice* was added for coordination with the provisions for prompt payment in the *Construction Act*.

Substantial Performance of the Work means substantial performance of the contract as defined under the *Construction Act (Ontario)*. Where the *Place of the Work* is located outside of Ontario, *Substantial Performance of the Work* shall be as defined in the lien legislation applicable to the *Place of the Work*, or in the absence of such legislation it shall mean the date the *Work* is ready for the purpose intended.

Definition of *Substantial Performance of the Work* was amended for coordination with the provisions of the *Construction Act*.

Toxic or Hazardous Substances or Materials means any solid, liquid, gaseous, thermal or electromagnetic irritant or contaminant, and includes, without limitation, pollutants, moulds, asbestos, bio-contaminants, biohazards and nuclear, and hazardous and special wastes whether or not defined in any federal, provincial, territorial or municipal laws, statutes or regulations.

Work means the total construction and related services required by the construction contract documents.

GENERAL CONDITIONS

GC1 ARCHITECT'S RESPONSIBILITIES

1.1 The *Architect* shall provide professional services as identified in this contract and shall:

- .1 exercise such professional skill and care as would be provided by *Architects* practising in the same area in the same or similar locality under similar circumstances,
- .2 perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the *Project*,
- .3 identify a representative authorized to act on behalf of the *Architect* with respect to the *Project*,
- .4 include the *Consultant Coordination* of all *Consultants* engaged by the *Architect* and those other *Consultants* engaged by the *Client* listed in Article A10.2,
- .5 maintain records of reimbursable expenses, and for any services for which the fee is computed as a multiple of hourly rates. These records shall be maintained in accordance with generally acceptable accounting standards and made available to the *Client* for review upon request at mutually convenient times,
- .6 utilize key personnel where so identified and request the *Client's* approval of any change, which approval shall not unreasonably be withheld,
- .7 maintain the confidentiality of information so identified and provided by the *Client*, and
- .8 except with the *Client's* knowledge and consent, neither engage in any activity, nor accept any employment, interest or contribution that would unreasonably compromise the *Architect's* professional judgment with respect to the *Project*.
- .9 notify the *Client* if the *Client* fails to accept the *Architect's* professional judgment with respect to the *Project* to such an extent that the *Architect* considers the *Client's* failure as demonstrating a loss of confidence in the professional skill and care of the *Architect*.

GC1.1.9 was added to define more specifically grounds for termination of the contract by the *Architect*. The failure of the *Client* to accept the *Architect's* professional judgement may relate primarily to issues of life safety, building code compliance, zoning or other applicable legislative matters, where there are a substantial number of issues or other significant matters demonstrating a loss of confidence.

GC2 ARCHITECT'S SCOPE OF BASIC SERVICES

2.1 The *Architect's* basic services consist of those services performed by the *Architect*, the *Architect's* employees, and the *Architect's* *Consultants* set forth herein or otherwise mutually agreed in writing. They include the provision of basic structural, mechanical and electrical engineering services by professional engineers when these *Consultants* are engaged by the *Architect*.

(Indicate in the table below each basic service to be provided by the *Architect* and the manner of compensation as indicated in Fee Reference for each as identified in Article A11.

2.1	ITEM	Service Provided:	Fee Reference:	Comments
	CONSTRUCTION PHASE			
.30	Proposed Change Notices/Change Orders and Change Directives - Prepare proposed change notices, drawings, specifications and supporting data, evaluate contractor's proposals, prepare change orders and change directives for the Client's approval and signature in accordance with the construction contract documents.			
.31	Inspection & Testing Services - Provide assistance in having inspection and testing companies perform services as required by the construction contract documents, receive and review their reports and report to Client.			

2.1	ITEM	Service Provided:	Fee Reference:	Comments
.32	Substantial Performance - As payment certifier prepare and issue at the appropriate time, a certificate of Substantial Performance of the Work in accordance with the provisions of the <i>Construction Act (Ontario)</i> .			
.32a	Deemed Completion – As payment certifier, prepare and issue at the appropriate time, a statement of construction contract deemed completion in accordance with the provisions of the <i>Construction Act (Ontario)</i> .			
	GC2.1.32 & 2.1.32a have been divided into separate tasks as not all projects have both substantial performance and deemed completion.			
.33	Contractor's Documentation at Completion - Receive from the contractor and forward to the Client for the Client's acceptance the written warranties and related documents as required under the construction contract.			
.34	Takeover Procedure - Arrange for takeover of the Project by the Client, including demonstration of operating equipment, handover of operating and maintenance manuals and replacement parts as specified.			
.35	Twelve Month Warranty Review - Prior to the end of the period of one year following the date of Substantial Performance of the Work, review any defects or deficiencies which have been reported or observed during that period, and notify the contractor in writing of those items requiring attention by the contractor to complete the Work in accordance with the construction contract between the owner and contractor.			

GC3 PROVISION OF ADDITIONAL SERVICES

- 3.2 Upon recognizing the need to perform the following unforeseen Additional Services the *Architect* shall notify the *Client* with reasonable promptness explaining the facts and circumstances. The *Architect* shall not proceed to provide the following services until the *Architect* receives the *Client's* written authorization. Compensation shall be at hourly rates identified in Article A11 unless mutually agreed otherwise. This shall include providing services, reviewing, evaluating, revising or providing additional drawings or specifications including proposed change notices, change orders, change directives or other documents which are:
- .1 caused by instructions that are inconsistent with instructions or written approvals previously given by the *Client*, including revisions made necessary by adjustments in the *Client's* Program of Requirements or budget for *Construction Cost*;
 - .2 required because of significant changes to the *Project*, including size, quality, complexity, the *Client's* schedule, or the method of bidding or negotiating and contracting for construction;
 - .3 caused by the enactment or revisions of statutes, regulations, codes or by-laws, subsequent to the preparation of such documents;
 - .4 caused by an interpretation by the authorities having jurisdiction which differs from the *Architect's* interpretation of statutes, regulations, codes and by-laws, which difference the *Architect* could not have reasonably anticipated;
 - .5 due to changes required as a result of the *Client's* failure to render decisions in a timely manner;
 - .6 in connection with evaluating substitutions proposed by the contractor and making subsequent revisions to the drawings, specifications and other documentation resulting from them;
 - .7 required to evaluate an extensive or unreasonable number or size of claims or requests for information (RFI's) submitted by the contractor or others in connection with the *Work*;
 - .8 due to replacement of any of the *Work* damaged by fire or other cause during construction and furnishing services as may be required in connection with the replacement of such work;

- .9 made necessary by the default of the contractor, by major defects or deficiencies in the *Work* of the contractor, by failure of performance by either the *Client* or the contractor under the construction contract;
- .10 requested by the *Client* in connection with any **adjudication**, mediation, arbitration proceeding, or legal proceeding which is not substantially caused by the *Architect's* error or omission;
- .11 requested by the *Client* in relation to the provisions for prompt payment under the *Construction Act* (Ontario) or other applicable legislation in respect of contracts between the *Client* and other parties which are being administered by the *Architect*;
- .12 made necessary by the extension of the anticipated dates for construction described in Article A7; or
- .13 in connection with the preparation and issuance of a certificate for payment for release of holdback on an annual basis, phased basis, or upon completion of a subcontract, as agreed to in the construction contract.

GC3.2.10, 3.2.11 and 3.2.13 have been amended for coordination with the provisions for prompt payment and adjudication in the *Construction Act*.

GC4 CLIENT'S RESPONSIBILITIES

GC4 CLIENT'S RESPONSIBILITIES

- 4.3 The *Client* shall provide information, surveys, reports and services as set out below, the accuracy and completeness of which the *Architect* shall be entitled to rely upon and such contracts for the provision of information, surveys, reports and services, whether arranged by the *Client* or the *Architect*, shall be considered direct contracts with *Client* unless explicitly provided otherwise:
- .1 surveys describing physical characteristics, legal limitations and utility locations for the *Project* site, and a written legal description of the site and adjoining properties as necessary showing the following survey and legal information, as applicable: grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights of way; restrictions; easements; encroachments; zoning; deed restrictions; boundaries and contours of the site; locations, dimensions and data pertaining to existing buildings, other improvements, and trees; and information concerning utility services, both public and private, above and below grade, including inverts and depths;
 - .2 subsurface investigation and reports which include but are not limited to test borings, test pits, determination of soil bearing values, percolation tests, a list of and evaluations of *Toxic or Hazardous Substances or Materials* present at the *Place of the Work*, ground corrosion and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate professional recommendations; and
 - .3 air and water pollution tests, tests for *Toxic or Hazardous Substances or Materials*, structural, mechanical, chemical, and other laboratory and environmental tests, inspections, laboratory and field tests and reports as required by the *Architect*, the *Architect's Consultants*, the authorities having jurisdiction or the construction contract documents.

It is the *Client's* responsibility to provide the *Architect* with the relevant information about the existing condition of the property. Further the *Architect* and the *Architect's Consultants* involved in the design services must have the right to rely upon the accuracy of the information provided.

It is possible for the *Architect* and their *Consultants* to assist in defining the scope of the information required for their purposes at the outset of the project and/or as it evolves. This assistance should not be construed as changing the underlying principle that the *Client* is responsible for all information about the existing condition of the property; the *Architect* is responsible for the changes it designs to the *Client's* property.

In regard to items .GC4.3.1, .2 & .3 above architects should acquaint themselves and the client with OAA Practice Tip 30 "*Retention of Specialist Consultants*" and with Pro-Demnity Bulletin dated April 2008 titled "*Retention of Specialists to meet Owner's Obligations*"

4.4 The *Client* shall:

- .1 authorize in writing a person to act on the *Client's* behalf and define that person's scope of authority with respect to the *Project* when necessary. In the absence of such naming of an authorized representative, the signatory to this contract is deemed to be the representative;
- .2 review documents submitted by the *Architect* and give the *Architect* timely decisions for the orderly progress of the *Architect's* services;
- .3 sign applications for permits as the owner, or if the *Client* is not the owner arrange for the owner to sign, and pay for the building permit and all other permits and development costs;
- .4 immediately notify the *Architect* in writing if the *Client* observes or otherwise becomes aware of any fault or defect in the *Project* or any nonconformity with the requirements of the construction contract;
- .5 engage *Consultants* identified in Article A10.2 of this contract under terms and conditions of other contracts that are compatible with this contract;
- .6 ensure that all *Consultants* engaged by the *Client* under other contracts carry professional liability insurance coverage;
- .7 provide any legal, accounting and insurance counselling services as may be necessary at any time for the *Project*, including such auditing services as the *Client* may require to verify the contractor's applications for payment, to ascertain how or for what purpose the contractor uses the monies paid by or on behalf of the *Client*; or for an issue related to the provisions for prompt payment under the *Construction Act* (Ontario) or other applicable legislation; and

GC4.4.7 has been amended for coordination with the provisions for prompt payment in the *Construction Act*.

- .8 provide reports and appropriate professional recommendations of specialist *Consultants* if required by the *Architect*.

GC6 CONSTRUCTION PHASE SERVICES

- 6.3 When engaged to provide payment certification, the issuance of a certificate for payment shall constitute a representation by the *Architect* to the *Client*, based on the *Architect's General Review* and on review of the contractor's schedule of values and application for payment, that the *Work* has progressed to the value indicated; that to the best of the *Architect's* knowledge, information and belief, the *Work* observed during the course of *General Review* is in general conformity with the construction contract documents and that the contractor is entitled to payment in the amount certified. Such certification is subject to:

- .1 review and evaluation of the *Work* as it progresses for general conformity as provided in the services described in this contract;
- .2 the results of any subsequent tests required by or performed under the construction contract documents;
- .3 minor deviations from the construction contract documents being corrected prior to completion; and
- .4 any specific qualifications stated in the certificate for payment.

The architect's role in the certification for payment process is to ascertain the extent of the construction that has been completed in general accordance with the construction contract documents in conjunction with consultants where applicable.

At the beginning of the work, the *Architect* and the *Client* review the schedule of values prepared and submitted by the contractor. The schedule of values is intended to be an accurate and fair representation of the proportion that each component is of the total construction cost.

The monthly payment certification process entails a review on site of the application for payment submitted by the contractor. An application for payment is divided into multiple components, each describing the percentage completion of the general contractor's General Conditions and trade contractors' or subcontractors' work and presented in a similar format as the schedule of values.

Refer to OAA documents for additional information and standard forms.

GC9 SUSPENSION OF SERVICES

- 9.1 If the *Client* lacks the financial ability or authority to proceed, the *Client* may give seven (7) days written notice to the *Architect* that the *Client* elects to suspend the *Architect's* services.
- 9.2 If any *Proper Invoice* submitted by the *Architect* remains unpaid by the *Client* for **twenty-nine (29)** days or more from the date the *Proper Invoice* was submitted, then the *Architect* may give seven (7) days written notice to the *Client* that the *Architect* will suspend services.
- 9.3 The *Architect* may suspend services on the *Project*:
- .1 if within seven (7) days of delivery of the notice in GC9, the *Client* has not paid subject to GC11 the *Architect's Proper Invoice*, the undisputed amount of a *Proper Invoice*, or the *Architect* and the *Client* have not agreed in writing on terms for payment of the *Proper Invoice*, or
 - .2 if construction of the *Work* proceeds in the absence of a building permit and without the chief building official dispatching building officials to the site or, if the *Architect* becomes aware of an action taken by the *Client* which violates applicable building codes or regulations.

GC9.3.1 has been amended for coordination with the provision for prompt payment in the Construction Act.

- 9.4 In either of the events of GC9.3 the *Client* shall not have any claim whatsoever against the *Architect* for any loss, cost, damage, or expense incurred or anticipated to be incurred by the *Client* as a result of the suspended services.
- 9.5 The rights of the *Architect* given by GC9.3 are in addition to and not in substitution for any other rights the *Architect* may have under this contract or otherwise for non-payment of the *Architect's* invoices by the *Client*.
- 9.6 In the event of a suspension of services, the *Architect* shall not be liable for delay or damage as a result of the suspension of services. Upon suspension, the *Architect* shall submit an invoice for all services performed to the effective suspension date, together with reimbursable expenses and applicable taxes then due. Before resuming services, the *Architect* shall be entitled to payment, within **twenty-eight (28)** days of the date that the invoice for suspension of services is **received by the Client**, for all suspension expenses as defined in GC9.7 and for all expenses for recommencement of services. The *Architect's* fees for the remaining services and time schedules shall be adjusted accordingly.

GC9.6 has been amended for coordination with the provision for prompt payment in the Construction Act.

- 9.7 Suspension expenses include expenses directly attributable to suspension of the *Project* for which the *Architect* is not otherwise compensated, including costs attributed to suspending the *Architect's* contractual and employee commitments.

GC10 TERMINATION OF SERVICES

- 10.1 This contract is terminated on the earliest of:
- .1 completion of the services
 - .2 termination in accordance with **GC10.2, 10.3 or 10.4**
 - .3 one year from the date of certification of *Substantial Performance of the Work*; or
 - .4 one year from the date of completion of the *Work*.

GC10.1 has been revised for clarity.

- 10.2 This contract may be terminated by either party upon not less than seven (7) days written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.
- 10.3 This contract may be terminated by the *Client* upon at least seven (7) days written notice to the *Architect* in the event that the *Project* is abandoned.
- 10.4 If the *Project* is suspended or abandoned in whole or in part for more than a total of sixty (60) days, it shall be deemed to be abandoned and treated in accordance with Article GC10.2.
- 10.5 This contract may be terminated by the Architect upon at least seven (7) days written notice to the Client under GC1.1.9 in the event that there has been a loss of confidence in the Architect's provision of services.**

GC10.5 added to define more specifically grounds for termination of the contract by the *Architect*. Refer to comments on GC1.1.9.

- 10.6 In the event of termination, the *Architect* shall be paid subject to GC11.6, within twenty-eight (28) days of the date that a *Proper Invoice* is received, the undisputed amount for all services performed to the effective termination date, together with reimbursable expenses and applicable taxes then due, and for all termination expenses as defined in GC10.7.

GC10.6 has been amended for coordination with the provision for prompt payment in the *Construction Act*.

- 10.7 Termination expenses are in addition to compensation for the *Architect's* services and include
1. expenses directly attributable to termination for which the *Architect* is not otherwise compensated,
 2. plus an amount for the *Architect's* anticipated profit calculated as 10% of the value of the services remaining to be performed by the *Architect* or
 3. such other amount as may be mutually agreed.

GC10.7 has been re-written for clarity.

GC11 PAYMENTS TO THE ARCHITECT

- 11.1 A *Proper Invoice* shall include the following information in addition to the minimum stated in the definition of *Proper Invoice*.

GC11.1 The above box may be used where any additional information required for the definition of *Proper Invoice* such as the *Architect's* and *Client's* project numbers should be located. If the definition of *Proper Invoice* as prescribed in the Definition section of the contract does not require any additional requirements, complete by filling in N/A.
Note – Subsequent clauses in GC11 are re-numbered.

- 11.2 A *Proper Invoice* submitted by the *Architect* under this contract is due and payable as described in Article A16. Payments for the *Architect's* services shall be made on account for *Proper Invoices* as described in Article A11 of this contract and, where applicable, shall be in proportion to services performed within each phase of the service.

GC11.2 has been amended for coordination with the provision for prompt payment in the *Construction Act*.

In the event that the *Client* fails to pay a *Proper Invoice* in accordance with the requirements for prompt payment under the *Construction Act* it is recommended that the *Architect* give careful consideration to the implications and obtain legal counsel for advice. Non-payment by the *Client* may also impact the *Architect's* obligation to pay *Consultants*. In all scenarios the terms and conditions govern for prompt payment under the *Construction Act*.

- 11.3 The *Client* shall pay the *Architect* for all reimbursable expenses plus an administrative charge as identified in Article A13 of this contract.

- 11.4 Reimbursable expenses include the following actual expenditures, supported by receipts or *Proper Invoices*, incurred by the *Architect*, and the *Architect's Consultants* in the interest of the *Project*:
- .1 transportation in connection with the *Project* for authorized travel, e.g. for transportation, lodging and meals;
 - .2 communication and shipping, e.g. for long distance telephone calls and facsimile messages, courier service, postage and electronic conveyances;
 - .3 reproduction of *Instruments of Service*, photographs, and other documents;
 - .4 web-based project management services, specifically requested by the *Client*;
 - .5 fees, levies, duties or taxes for permits, licences or approvals from authorities having jurisdiction;
 - .6 premiums for additional insurance coverage or limits, including that of professional liability insurance, requested by the *Client* in excess of that normally carried by the *Architect* and the *Architect's Consultants*; and
 - .7 other *Project* related expenses approved by the *Client* prior to expenditure.

GC11.4 has been amended for coordination with the provision for prompt payment in the *Construction Act*.

- 11.5 No deductions shall be made by the *Client* from amounts payable to the *Architect* on account of penalty, liquidated damages, or other sums withheld from payments to contractors, or on account of the cost of changes in the *Work* other than those for which the *Architect* is proven to be legally responsible or has agreed to pay.
- 11.6 In the event of dispute, amounts under dispute are those subject to being resolved through adjudication, mediation, arbitration proceeding, or legal proceeding. *Any amount so determined or resolved shall be subject to Article A17.*

GC11.6 has been amended to clarify that interest on the outstanding amounts of an invoice deemed to be payable are subject to interest as defined in Article A17.

- 11.7 Variance from the *Client's* budget for the *Construction Cost* established under this contract shall not constitute grounds for the *Client* to withhold fees due to the *Architect*.
- 11.8 When a percentage-based fee is used as the method for determining the *Architect's* fee, the basis for calculating the applicable portion of the fee for each phase of the *Architect's* services shall be based on Article A14 of this contract.
- 11.9 When a percentage-based fee is used and any parts of the *Project* are deleted or otherwise not constructed the *Construction Cost* shall be the *Estimate of Construction Cost* as determined by the *Architect*, or as agreed by the *Architect* if a cost *Consultant* is engaged, at market rates at the anticipated time of construction.
- 11.10 If and to the extent that the contract time initially established in the construction contract is exceeded or extended through no fault of the *Architect*, fees for services required for such extended period of the construction contract administration shall be adjusted and computed as set forth in Article A13 of this contract or as otherwise mutually agreed with the *Client*.

GC11.10 of OAA 600-2013 was amended in July 1, 2018 for coordination with the provisions of the *Construction Act*. The previous wording of GC11.10 which deemed the contract divided into two separate contracts to allow for release of holdback at the end of design is no longer required as phased release is permitted under the *Construction Act* as noted in Article A18.

- 11.11 The *Client* shall pay to the *Architect*, together with, and in addition to, any fees and reimbursable expenses, value added taxes that are, or become, payable as required by legislation.